

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9156. By Mr. HART: Memorial of New Jersey State Legislature, approved June 27, 1935, memorializing Congress to reduce the present Federal taxes on distilled spirits; to the Committee on Ways and Means.

9157. By Mr. JOHNSON of Texas: Petition of G. H. Ingram, Easterly, Tex., favoring House bill 8652; to the Committee on Ways and Means.

SENATE

WEDNESDAY, JULY 17, 1935

(Legislative day of Monday, May 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, July 16, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following

Senators answered to their names:

Adams	Coolidge	King	Radcliffe
Ashurst	Copeland	La Follette	Reynolds
Austin	Costigan	Lewis	Robinson
Bachman	Davis	Logan	Russell
Bailey	Dickinson	Loneragan	Schall
Bankhead	Dieterich	McAdoo	Schwellenbach
Barbour	Donahey	McCarran	Sheppard
Barkley	Duffy	McGill	Shipstead
Bilbo	Fletcher	McKellar	Smith
Black	Frazier	McNary	Steiwer
Bone	George	Maloney	Thomas, Okla.
Borah	Gerry	Metcalf	Townsend
Brown	Gibson	Minton	Trammell
Bulkley	Glass	Moore	Truman
Bulow	Gore	Murphy	Tydings
Burke	Guffey	Murray	Vandenberg
Byrd	Hale	Neely	Van Nuys
Byrnes	Harrison	Norbeck	Wagner
Capper	Hastings	Norris	Walsh
Caraway	Hatch	Nye	Wheeler
Carey	Hayden	O'Mahoney	White
Chavez	Holt	Overton	
Clark	Johnson	Pittman	
Connally	Keyes	Pope	

Mr. LEWIS. I announce that the Senator from Louisiana [Mr. LONG] and the Senator from Utah [Mr. THOMAS] are unavoidably detained from the Senate.

Mr. VANDENBERG. I repeat the announcement that my colleague the senior Senator from Michigan [Mr. COUZENS] is absent on account of illness.

The VICE PRESIDENT. Ninety-three Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed a bill (H. R. 7506) to provide for a stenographic grade in the offices of Chief Clerk and Superintendent in the Railway Mail Service, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 884) for the relief of Lt. Comdr. G. C. Manning, and it was signed by the Vice President.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate papers in the nature of petitions from several citizens of Gaithersburg, Md., praying for the enactment of House bill 6990, providing a 40-hour week in the Postal Service, which were ordered to lie on the table.

He also laid before the Senate the petition of the "Needy Veterans' Bonus Army", signed by Royal W. Robertson,

commander, California; James J. McGrath, lieutenant commander, Pennsylvania, and other citizens, praying for the prompt enactment of the joint resolution (H. J. Res. 300) authorizing and directing the payment of the adjusted-service certificates to the World War veterans out of the appropriations for public works, which was referred to the Committee on Finance.

Mr. POPE presented the following joint memorials of the Legislature of the State of Idaho, which were referred to the Committee on Agriculture and Forestry:

A joint memorial to the distinguished President of the United States and Hon. Harry Hopkins, Federal Works Progress Director for the United States, and the Honorable J. L. Hood, works progress director for the State of Idaho

We, your memorialists, the Legislature of the State of Idaho, respectfully represent that—

Whereas many of the irrigated sections of Idaho have become overrun with noxious weeds, such as wild morning glory and Canadian thistle; and

Whereas due to the economic conditions of our country during the last few years, it has been impossible to furnish State or Federal aid to assist in the eradication of such noxious weeds; and

Whereas the noxious-weed menace is the most serious menace confronting Idaho agriculture today, it having severely impaired, and, in many cases, actually destroyed our farms; and

Whereas this menace has achieved such proportions that the farmers, the counties, and the State of Idaho seem helpless in the face of it: Now, therefore, be it

Resolved by the House of Representatives of the State of Idaho (the senate concurring), That we respectfully urge upon the President of the United States, the Honorable Harry Hopkins, in his official capacity, and the Honorable J. L. Hood, works progress director for Idaho, that they seriously consider the making of an allocation from the Works Progress Administration for the purpose of putting men to work combating the noxious-weed menace that now threatens to destroy much of the valuable farm lands of the State of Idaho; be it further

Resolved, That the secretary of state of the State of Idaho be authorized, and he is hereby directed, to immediately forward certified copies of this memorial to the Honorable President Franklin Delano Roosevelt, to the Honorable Harry Hopkins, and the Honorable J. L. Hood, Public Works director for Idaho, Congressman D. Worth Clark, Congressman Compton I. White, Senator James P. Pope, and Senator William E. Borah.

Joint memorial

To the Senate and House of Representatives of the Congress of the United States of America:

We, your memorialists, the Senate and House of Representatives of the State of Idaho, in legislative session, duly and regularly assembled, most respectfully present the following preamble and resolution, to wit:

Whereas there have heretofore been available certain emergency funds for the retirement of submarginal farm land and the development of this poor land for a better economic and social use; and Whereas the administrative program and policy of the Government has recently been changed so that insufficient funds are at present available for the further purchase and development of such submarginal lands; and

Whereas the conditions within the State of Idaho are such that the retirement of such poor farm lands from cultivation is necessary for the permanent rehabilitation of stranded farm families, the adequate administration of the Taylor Grazing Act, the consolidation of scattered holdings of Federal, State, and county lands, the reduction of the costs of public services, and the rational development of land resources: Now, therefore, be it

Resolved by the Senate of the State of Idaho (the house of representatives concurring), That we most respectfully urge upon the Congress of the United States that the Congress make sufficient appropriation for the continuance and necessary expansion of the purchase and better economic development of submarginal lands.

RECIPROCAL TRADE AGREEMENTS AFFECTING MANGANESE

Mr. MCCARRAN. I ask leave to have inserted in the RECORD a release of correspondence from the American Manganese Producers' Association bearing on the subject of the proposed or existing reciprocal trade agreement between this country and Russia.

I also ask leave to have inserted in the RECORD an article from the Washington Times of July 15 bearing on the same subject, under the caption "Steel Imports Blamed in United States Labor Loss."

There being no objection, the matters were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

AMERICAN MANGANESE PRODUCERS ASSOCIATION,
Washington, D. C., July 15.

"The back-door methods of the State Department in negotiating foreign-trade pacts, to the destruction of American industry, must be stopped", J. Carson Adkerson, president of the American Manganese Producers Association, declared today.

The United States trade pacts with Russia and Brazil will mean a loss to the United States Government of \$2,500,000 collectible as duty on manganese ore imported during the last 3 years and now piled in the bonded warehouse yards of the steel companies in the United States. It will mean an additional loss of approximately \$2,500,000 per year in revenue on ore to be imported.

The Russian trade pact will serve no purpose in foreign trade. Imported manganese ore will sell at the same price f. o. b. Atlantic ports with or without the duty. The only difference will be the loss of the duty to the United States and the destruction of the growing domestic manganese industry, essential in our national defense, and will deny employment to from 5,000 to 7,000 men at a time when this employment is sorely needed.

[From the Washington Times of July 15, 1935]

STEEL IMPORTS BLAMED IN UNITED STATES LABOR LOSS

NEW YORK, July 15.—More than 3,900 American workmen have been deprived of full-time jobs during the first 5 months of this year because of the increase in imports of foreign steel, the American Iron and Steel Institute announced today.

Government figures on imports and a recent report of the United States Department of Labor on the number of man-hours required to produce steel products were used as the basis of the computations.

STATISTICS QUOTED

The Iron and Steel Institute found that tonnage of steel imports from January to May was 65 percent above the volume of the corresponding period last year. Domestic production during the same period was less than 3.5 percent above the first 5 months of 1934.

The report of the Iron and Steel Institute says:

"Of the jobs lost to American workmen through the importation of foreign-made steel about 2,640 would have been available in the steel mills, according to calculations based on the Department of Labor figures, while mining the ore, coal, and limestone necessary to produce the steel in this country would have employed 570 more men.

TARIFF CHANGES

"Another 590 men would have been required to transport by rail and water the 6 tons of raw materials entered into each ton of steel and finally to transport the finished steel itself to market.

"Manufacture of coke for use in blast furnaces would have given employment to 110 more men."

The Iron and Steel Institute points out that under the reciprocal trade agreements already in force or proposed between the United States and other countries duties are being lowered on many types of steel entering American markets from abroad.

BRITISH AGREEMENTS

Great Britain, on the other hand, recently raised its tariffs on iron and steel from 33½ to 50 percent above former levels.

Under threat of securing still higher barriers to protect themselves against the inroads of foreign competition, British steel producers have reached agreements with Continental producers to limit imports after the first year of these pacts to a tonnage below the total imports of 1933—the lowest in many years.

REVISION OF COPYRIGHT ACT

Mr. WAGNER presented several telegrams relating to a revision of the Copyright Act, which were ordered to lie on the table and to be printed in the RECORD, as follows:

NEW YORK, N. Y., June 22, 1935.

Senator WAGNER:

I sincerely hope you will oppose copyright bill, S. 3047. The bill gives foreign authors basic copyright without formality, but denies it to American authors. The bill seems to protect chiefly the commercial enterprises which live on the authors.

JOHN ERSKINE.

HOLLYWOOD, CALIF., July 16, 1935.

Senator WAGNER,

United States Senate, Washington, D. C.:

The phraseology of the current copyright amendment bill known as the "Duffy bill" bewildered me, because I am not very familiar with such documents. However, what did seep through my mind left me in utter amazement. How can anyone vote for such an un-American document? It is obvious that it deprives the struggling author and composer of every vestige of defense against infringement. It does not take a legal specialized mind to understand that behind this bill are sponsors who are attempting to take away rights by amending the present Copyright Act. I beg of you, honorable sir, that you consider carefully and justly, and when you do I am positive you must vote "nay." In my talks with fellow craftsmen everyone voiced indignant fear at even the possibility of this bill being enacted. I hope my plea, while humble in argument, will have force, because it is sincere and has the little fellow at heart.

LEW BROWN,

(Formerly De Sylva, Brown, and Henderson).

NEW YORK, N. Y., July 16, 1935.

Senator ROBERT WAGNER,

United States Senate, Washington, D. C.:

As a song writer of 40 years' standing, I am unalterably opposed to the Duffy bill pending before Senate. The American Society of

Authors, Composers, and Publishers is a lifesaver and greatest protection for writers. Congratulations for the wonderful work you are doing. Best wishes and regards.

GUS EDWARDS.

HOLLYWOOD, CALIF., July 16, 1935.

Senator WAGNER:

After studying the Duffy bill, no. S. 3047, carefully, I must register my objections to same most emphatically. At the outset this amendment to the copyright bill grants to foreign authors and composers rights which are denied American authors. In my opinion this is too big a price to pay for our entry into the Berne convention. The subsection which removes the minimum damage provision embodied in the existing law works a hardship on the so-called "little fellow", because the possibility of recovering nominal damages would make it unprofitable to defray the expense of a copyright suit. The statutory damages provided for in the present copyright law has certainly acted as a block against legalized piracy. This proposed bill certainly takes away rights from the creators and destroys initiative. Furthermore it will tend to encourage more usage of foreign works when American writers are in urgent need of every encouragement possible. This bill would enable broadcasters and other users of music for profit to help themselves to works without any worry of penalty for infringement. Please believe me, I have given this careful thought, and it is only because of my interest in 90 percent of American composers, authors, novelists, and writers who can barely make a living. I have always held a great regard for your sense of justice, and I am confident you will not fail to recognize the injustice which this bill would do to members of the creative arts.

IRVING BERLIN.

REPORTS OF COMMITTEES

Mr. BAILEY, from the Committee on Claims, to which was referred the bill (H. R. 4226) for the relief of Floyd Hull, reported it without amendment and submitted a report (No. 1093) thereon.

Mr. TOWNSEND, from the Committee on Claims, to which was referred the bill (H. R. 4406) for the relief of Anna Farruggia, reported it without amendment and submitted a report (No. 1094) thereon.

Mr. LOGAN, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 1422. A bill conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of William E. B. Grant (Rept. No. 1095); and

H. R. 1540. A bill for the relief of Lester I. Conrad (Rept. No. 1096).

Mr. CAPPER, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 2421. A bill for the relief of John R. Allgood (Rept. No. 1097);

H. R. 4290. A bill for the relief of Harriet V. Schindler (Rept. No. 1098); and

H. R. 4718. A bill for the relief of Yamato Sesoko (Rept. No. 1099).

Mr. SCHWELLENBACH, from the Committee on Claims, to which was referred the bill (S. 2323) for the relief of Ida C. Buckson, executrix of E. C. Buckson, deceased, reported it with an amendment and submitted a report (No. 1100) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 670. A bill conferring jurisdiction in the Court of Claims to hear and determine the claim of George B. Gates (Rept. No. 1101);

H. R. 1541. A bill for the relief of Evelyn Jotter (Rept. No. 1102);

H. R. 2122. A bill for the relief of William Seader (Rept. No. 1103);

H. R. 2487. A bill for the relief of Bernard McShane (Rept. No. 1104);

H. R. 3167. A bill for the relief of Louis Alfano (Rept. No. 1105);

H. R. 3826. A bill for the relief of John Evans (Rept. No. 1106);

H. R. 4029. A bill for the relief of Thomas Enchoff (Rept. No. 1107);

H. R. 4822. A bill for the relief of Thomas F. Olsen (Rept. No. 1108); and

H. R. 4853. A bill for the relief of Charles H. Holtzman, former collector of customs, Baltimore, Md.; George D. Hubbard, former collector of customs, Seattle, Wash.; and William L. Thibadeau, former customs agent (Rept. No. 1109).

Mr. BURKE, from the Committee on Claims, to which was referred the bill (S. 3186) for the relief of Edward H. Karg, reported it with amendments and submitted a report (No. 1110) thereon.

He also, from the same committee, to which was referred the bill (H. R. 5521) for the relief of Frank Williams, reported it with an amendment and submitted a report (No. 1111) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 2449. A bill for the relief of Floyd L. Walter (Rept. No. 1112);

H. R. 2679. A bill for the relief of Ladislav Cizek (Rept. No. 1113);

H. R. 3506. A bill for the relief of George Raptis (Rept. No. 1114);

H. R. 4812. A bill for the relief of Mrs. Carlisle Von Thomas, Sr. (Rept. No. 1115);

H. R. 4814. A bill for the relief of Lt. Col. Russell B. Putnam, United States Marine Corps (Rept. No. 1116);

H. R. 4815. A bill for the relief of Jasper Daleo (Rept. No. 1117);

H. R. 4820. A bill for the relief of Lawrence S. Copeland (Rept. No. 1118);

H. R. 4824. A bill for the relief of Capt. George W. Steele, Jr., United States Navy (Rept. No. 1119);

H. R. 4833. A bill for the relief of Ciriaco Hernandez and others (Rept. No. 1120);

H. R. 4974. A bill for the relief of Rabbi Isaac Levine (Rept. No. 1121); and

H. R. 5041. A bill authorizing and directing the Secretary of the Treasury to reimburse Lela C. Brady and Ira P. Brady for the losses sustained by them by reason of the negligence of an employee of the Civilian Conservation Corps (Rept. No. 1122).

Mr. WALSH, from the Committee on Finance, to which was referred the bill (S. 1421) to amend subsection (a) of section 313 of the Tariff Act of 1930, reported it with an amendment and submitted a report (No. 1123) thereon.

Mr. KING, from the Committee on the Judiciary, to which was referred the bill (S. 2944) to prevent and make unlawful the practice of law before Government departments, bureaus, commissions, and their agencies by those other than duly licensed attorneys at law, reported adversely thereon.

Mr. NEELY, from the Committee on the Judiciary, to which was referred the bill (S. 3179) to appoint one additional judge of the District Court of the United States for the Eastern, Middle, and Western Districts of Tennessee, reported it without amendment and submitted a report (No. 1124) thereon.

Mr. SHEPPARD, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 7575. A bill to legalize a bridge across Black River on United States Highway No. 60 in the town of Poplar Bluff, Butler County, Mo. (Rept. No. 1125);

H. R. 7591. A bill granting the consent of Congress to the cities of Donora and Monessen, Pa., to construct, maintain, and operate a bridge across the Monongahela River between the two cities (Rept. No. 1126);

H. R. 7620. A bill to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill. (Rept. No. 1127);

H. R. 7659. A bill to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes (Rept. No. 1128); and

H. R. 7809. A bill to extend the times for commencing and completing the construction of certain free highway bridges across the Red River from Moorhead, Minn., to Fargo, N. Dak. (Rept. No. 1129).

Mr. ADAMS, from the Committee on Banking and Currency, to which was referred the bill (S. 3086) to provide for the striking of medals, in lieu of coins, for commemorative purposes, reported it without amendment and submitted a report (No. 1130) thereon.

PRINTING OF PROCEEDINGS ON SEATING OF SENATOR HOLT

Mr. HAYDEN, from the Committee on Printing, reported a resolution (S. Res. 171), which was considered by unanimous consent and agreed to, as follows:

Resolved, That the extracts from the CONGRESSIONAL RECORD containing the proceedings of the Senate in the seating of RUSH D. HOLT as Senator from West Virginia, together with the petitions and the briefs filed with the Committee on Privileges and Elections respecting said seating, be printed as a Senate document.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GEORGE:

A bill (S. 3271) providing for the deductibility of charitable and other contributions by corporations for the purposes of income tax; to the Committee on Finance.

By Mr. McNARY:

A bill (S. 3272) authorizing the Snake or Piute Tribe of Indians of the former Malheur Indian Reservation of Oregon to sue in the Court of Claims; to the Committee on Indian Affairs.

By Mr. BACHMAN:

A bill (S. 3273) for the relief of Oswald Orlando; to the Committee on Claims.

By Mr. DUFFY:

A bill (S. 3274) for the relief of Mary Hobart; to the Committee on Claims.

By Mr. TRAMMELL:

A bill (S. 3275) for the relief of Thomas Ernest Warren; to the Committee on Military Affairs.

By Mr. LA FOLLETTE (by request):

A bill (S. 3276) to provide for payment of hospital care in lieu of hospitalization or domiciliary care in certain cases, and to limit the reduction of compensation in such blind cases; to the Committee on Finance.

HOUSE BILL REFERRED

The bill (H. R. 7506) to provide for a stenographic grade in the offices of Chief Clerk and Superintendent in the Railway Mail Service was read twice by its title and referred to the Committee on Post Offices and Post Roads.

CHANGE OF REFERENCE

On motion of Mr. SHEPPARD, the Committee on Military Affairs was discharged from the further consideration of the bill (S. 3226) for the relief of Gertrude Hunter, and it was referred to the Committee on Pensions.

INCREASE OF TAXATION—AMENDMENT

Mr. CONNALLY. Mr. President, I ask unanimous consent to file, for appropriate reference and printing, an amendment intended to be proposed by me to the tax bill when it shall come from the House of Representatives. The amendment proposes an excess-profits tax.

The VICE PRESIDENT. Without objection, the amendment will be received, printed, and referred to the Committee on Finance.

THE BANKING SYSTEM—AMENDMENTS

Mr. FLETCHER submitted four amendments intended to be proposed by him to the bill (H. R. 7617) to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes, which were ordered to lie on the table and to be printed.

RELIEF OF PUBLIC SCHOOLS—AMENDMENT

Mr. WHEELER submitted an amendment intended to be proposed by him to the bill (S. 3123) to provide for the relief of public-school districts and other public-school authorities, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT TO GRAZING ACT—BAD LANDS NATIONAL MONUMENT

Mr. NORBECK submitted an amendment intended to be proposed by him to the bill (H. R. 3019) to amend sections 1,

3, and 15 of "An act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes", approved June 28, 1934 (48 Stat. 1269), which was ordered to lie on the table and to be printed.

COMPENSATION FOR THE TAKING OF CERTAIN PROPERTY—
AMENDMENT

Mr. CLARK submitted an amendment intended to be proposed by him to the bill (S. 3252) to provide for recovery of compensation for taking property, and for damage to the same from overflow, water seepage, water percolation, or interference with drainage, and for interference with the sewer, drainage, or flood-protection system of any municipality, and to any legally organized drainage or levee district, by the construction, maintenance, or operation of any dam, structure, or other improvement by the United States in or along navigable streams and inland waterways for the improvement of navigation thereon, and to provide for the prosecution of claims against the United States therefor and payment of judgments, which was referred to the Committee on Commerce and ordered to be printed.

RICE LAKE AND CONTIGUOUS LANDS IN MINNESOTA

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2532) to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota" approved June 23, 1926, and for other purposes, which was,

on page 3, line 19, after the word "lakes", to insert a colon and the following proviso:

Provided, however, That there shall be and hereby is excluded from said reserves any and all areas, whether of land or water, necessary or useful for the development to the maximum of water power or the improvement of navigation in the Pigeon River, an international boundary stream, and tributary lakes and streams.

Mr. THOMAS of Oklahoma. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

SALARIES AND WAGES

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have inserted in the RECORD a brief article and the accompanying table appearing in the New Republic for July 10. The article is entitled "Some Salaries and Wages."

There being no objection, the article and table were ordered to be printed in the RECORD, as follows:

[From the New Republic of July 10, 1935]

SOME SALARIES AND WAGES

The table that appears below has been compiled by the New Republic from two sets of official figures in Washington. The figures for officials' salaries are drawn from the records of the Securities Exchange Commission. Those for the wages in the same industries are taken from the "Trend of Employment" compiled by the Bureau of Labor Statistics of the United States Department of Labor.

The individual named in the second column is in most cases the chairman or president of the company. He is usually, but not always, the individual receiving the highest salary. It should be noted that the figures for 1933 and 1934 are not strictly comparable, since the latter covers total compensation, including bonuses, etc.

The weekly wages given for December 1933 and for December 1934 are in each case for the industry in which the major part of the company's business lies.

Name of company	Name of officer	His total compensation in 1934	His yearly salary in 1933	Approximate average weekly wage in same industry, December 1934	Approximate average weekly wage in same industry, December 1933
Addressograph-Multigraph Co.	J. E. Rogers	\$40,800	\$40,800	\$23	\$20
Air Reduction Co., Inc.	C. E. Adams	76,269	45,725	24	23
Alpha Portland Cement	G. S. Brown	32,249	36,000	17	15
American Commercial Alcohol Corporation	R. R. Brown	50,797	21,000	24	23
American Hide & Leather Co.	C. F. Danner	18,806	15,000	20	20
American Machine & Foundry Co.	R. L. Patterson	40,000	40,000	20	18
American Metal Co.	H. K. Hochschild	24,000		20	17
American Radiator & Standard Sanitary Corporation	C. M. Woolley	48,000	24,000	19	14
American Rolling Mills	G. Verity	63,000	63,000	19	17
American Safety Razor	M. Dammann	59,740	54,000	20	19
American Smelting & Refining Co.	S. Guggenheim	50,000	40,000	20	17
American Snuff	M. J. Condon	64,256	50,000	14	13
American Steel Foundries	G. E. Scott	32,400	32,400	22	19
American Telephone & Telegraph	W. S. Gifford	206,250		27	26
American Woolen Co.	L. J. Noah	85,300	84,000	17	16
American Zinc, Lead & Smelting	H. I. Young	25,385	20,000	20	17
Anaconda Copper Mining Co.	C. F. Kelley	92,666	208,402	21	20
Anchor Cap Corporation	I. R. Stewart	46,644	31,725		
Armstrong Cork	H. W. Prentiss	48,000			
Beechnut Packing Co.	B. Arkell	20,800	20,800	13	
Best & Co.	P. LeBoutillier	130,095	60,000	19	18
Bethlehem Steel Corporation	Charles M. Schwab	25,000	250,000	19	17
Blaw-Knox Co.	A. C. Lehman	33,500	36,000	24	22
Caterpillar Tractor Co.	B. C. Heacock	32,056	28,800	25	19
Certain-teed Products Corporation	G. M. Brown	24,000	32,400		
Cluett-Peabody & Co., Inc.	C. R. Palmer	47,166	43,500	12	11
Coca-Cola Co.	R. W. Woodruff	100,500	75,000	27	23
Crown-Zellerbach Corporation	L. Bloch	67,500	67,500	19	17
Curtiss-Wright Corporation	T. A. Morgan	25,560	25,000	25	24
Diamond Match Co.	W. A. Fairburn	100,000	100,000		
Distillers and Brewers Corporation	S. Ungeleider	37,500		27	23
Eastman Kodak	F. W. Lovejoy	90,903			
Fairbanks, Morse & Co.	R. H. Morse	62,500	58,500	24	22
General American Transportation Corporation	M. Epstein	60,000	60,000		
Gillette Safety Razor Co.	S. C. Stampleman	60,000	60,000	20	19
B. F. Goodrich Co.	J. D. Tew	60,142	60,142	26	20
Goodyear Tire & Rubber Co.	F. W. Litchfield	81,000	81,000	26	20
Grand Rapids Varnish Corporation	W. E. Brown	25,000		21	20
W. T. Grant	B. A. Rowe	50,071	33,000	19	13
Great Western Sugar Co.	W. D. Lippitt	53,363	50,000	15	13
Hercules Powder Co.	R. H. Dunham	55,000	31,183	22	12
Hershey Chocolate Corporation	W. F. R. Murrie	91,550	66,550	16	15
Ingersoll-Rand	G. Doubleday	78,000	78,000		
Inland Steel Co.	L. E. Block	48,750	45,000	19	17
Interlake Iron Corporation	C. D. Caldwell	41,424	41,424	21	20
International Business Machines Corporation	T. J. Watson	385,358	60,000	26	25
Island Creek Coal Co.	T. B. Davis	42,430	43,558	18	17
Jones & Laughlin Steel Corporation	G. G. Crawford	250,000	250,000	19	17
Lehigh Coal & Navigation Co.	S. D. Warriner	39,700		24	23
Libbey-Owens-Ford Glass Co.	J. D. Biggers	40,000	36,000	19	18
Long-Bell Lumber	M. B. Nelson	14,250	14,250	14	13
Ludlum Steel Co.	H. G. Batcheller	45,775	20,945	19	17
Marshall Field & Co.	J. McKinley	60,000	60,000	19	18
Mid-Continent Petroleum Co.	J. France	81,000	81,000	26	23
Midland Steel Products Co.	E. J. Kulas	25,000	22,500	19	17
Mohawk Carpet Mills	A. W. Shuttleworth	50,000		18	16

¹ Includes other compensation.

² Plus stock bonus.

Name of company	Name of officer	His total compensation in 1934	His yearly salary in 1933	Approximate average weekly wage in same industry, December 1934	Approximate average weekly wage in same industry, December 1933
Montgomery Ward & Co., Inc.	S. L. Avery	\$100,000	\$100,000	\$19	\$18
National Cash Register Co.	E. A. Deeds	75,000	75,000	26	25
National Distillers Products Corporation	S. Porter	75,400	75,000	27	28
National Lead Co.	W. H. Croft	188,013	15,000	20	17
National Tea Co.	G. Rasmussen	60,000	60,000	19	18
New York Air Brake Co.	L. R. Burch	36,000	36,000		
New York Shipbuilding Corporation	J. F. Metten	31,000		23	21
Otis Elevator Co.	J. H. Van Alstyne	65,371	48,600	22	18
Otis Steel Co.	J. E. Montgomery	35,000	23,000	19	17
Owens-Illinois Glass Co.	W. E. Lewis	100,000	100,000	19	18
Packard Motor Car Co.	A. MacCauley	40,329		25	19
Pan American Airways	J. T. Trippe	17,300	17,100		
Pan-American Petroleum Co.	L. Blaustein	65,250	65,000	26	25
Penick & Ford	A. W. H. Lenders	52,175	38,000	21	20
J. C. Penney Co.	J. C. Penney	42,133	10,000	19	18
Pennsylvania Power & Light Co.	J. S. Wise	27,639		29	23
Peoples Drug Co.	M. G. Gibbs	50,000	40,000	19	18
Pet Milk Co.	W. T. Nardin	50,456	36,000	13	
Phelps-Dodge Corporation	L. S. Cates	76,440	75,000	21	20
Philadelphia and Reading Coal & Iron Co.	A. J. Maloney	60,000	60,000	24	23
Phillips-Jones Corporation	A. S. Phillips	44,119	36,000	12	11
Pittsburgh Coal Co.	J. D. A. Morrow	34,128	24,772	24	23
Pullman, Inc.	D. A. Crawford	65,484		19	17
Radio Corporation of America	D. Sarnoff	52,330		27	26
Raybestos Manhattan	S. Simpson	39,825	39,600		
Real Silk Hosiery Mills, Inc.	G. A. Efrogmson	25,000	25,000	16	14
Remington-Rand, Inc.	J. H. Rand, Jr.	94,120	60,000	26	25
R. J. Reynolds Tobacco Co.	S. Clay Williams	60,000	18,000	14	13
Schenley Distillers Corporation	Grover Whalen	78,188		27	28
Schulte Retail Stores Corporation	L. Goldvogel	30,300		19	18
Sears Roebuck & Co.	L. J. Rosenwald	85,139	61,363	19	18
Simmons Co.	G. G. Simmons	32,400	32,400		
Skelly Oil Co.	W. G. Skelly	48,000	48,000	26	26
Standard Oil of Indiana	E. G. Seubert	117,000		19	17
Standard Oil of Kansas	C. H. Wrightman	46,000	38,000	26	26
Stewart-Warner	J. E. Otis, Jr.	30,000	29,000	26	25
Studebaker Corporation	P. G. Hoffman	50,000		25	19
Tidewater Oil	W. F. Humphrey	160,000	18,000	26	25
United Aircraft Corporation	D. Brown	15,000	45,000		
United Biscuit Co. of America	K. F. MacLellan	36,000	10,200	21	21
United Drug Co.	L. K. Liggett	62,000		19	13
United States Industrial Alcohol	C. E. Adams	36,300	34,200	24	23
United States Rubber Co.	F. B. Davis	125,219		23	20
United States Smelting, Refining & Mining Co.	C. A. Hight	55,210	40,000	20	17
United States Tobacco Co.	J. M. De Voe	62,820	58,522	14	13
Vanadium Corporation of America	A. A. Corey, Jr.	42,535	30,000	20	18
Walworth Co.	H. Coonley	25,475	25,000	24	22
Warren Bros. Co.	C. R. Gow	16,000			
Westinghouse Electric & Manufacturing Co.	A. W. Robertson	78,805	75,181	22	18
Wheeling Steel Corporation	W. H. Holloway	44,486	27,945	19	17
Wright Aeronautical Corporation	G. W. Vaugh	23,424	20,256	25	24

¹ Includes other compensation.² Plus stock bonus.

THE CONSTITUTION AND THE NEW DEAL

Mr. BARKLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an address delivered on July 13 by Gen. Hugh S. Johnson during a debate with Representative James W. Wadsworth, of New York, before the Ninth Annual Session Institute of Public Affairs at the University of Virginia on the subject of The Constitution and the New Deal.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

We have no better statesman than Senator WADSWORTH. He has had my admiration for many years. On this partly partisan question of the new deal. I would ever remember that he selflessly stands for what he believes is best. But I would never forget that he is speaking from his tradition and his type—an aristocrat of the pure Hamiltonian strain and the very flower of the flock.

There are foundations—deep and old—for this controversy over the new deal. It goes back to a conflict of opinion at the very birth of our beginnings—a difference in the genius of the two foremost founders of this Nation. Even if its outward semblance often shifts from party to party, the basis of that difference has remained for a century and a half. It was not fundamentally a question of State rights or Federal power. That was only one aspect of the real underlying conflict which was simply and forever this: "Shall our political and economic policy be what the people want, or shall it be what some guiding group may think is best for them?"

Whether you call one side Federalists, Tories, or Republicans, and the other side anti-Federalists, Whigs, or Democrats—that difference remains—the difference between a disorganized mob and an organized appetite—the difference between run-of-the-mill humanity and its privileged crust—the difference between some approach to equality and a frankly designed unbalance.

There was logic for the old Bourbon formula in the days of our beginnings. Then, few but the wealthy were learned and so equipped to govern. America was a howling wilderness rich in raw resource but with scarcely a mill wheel turning. Wealth in great groups was needed quickly to develop and improve it. Thus—for

both a political and an economic reason—there was much to be argued for this idea.

Of the underprivileged, it seemed sufficient to say: "Of the plenty which, by this policy, will rapidly appear, more will trickle down to the poor in a year, than they could expect in a decade of slower development under too pure a democracy."

There was a robust dissent to this doctrine of privilege, and this very ground upon which we stand was the pit from whence was dug its foremost champion, Thomas Jefferson. But this was the frank and outspoken policy of Alexander Hamilton. He acted upon it with vigor. It took its first form under his hand in the protective tariff, which was clearly recognized by the Constitutional Convention to be an outright device to subsidize the infant industries of the eight northern industrial States at the expense of the five southern agricultural States—an open and avowed policy of privilege, the design and the effect of which was to create a power of wealth in favored groups, in favored territorial sections, and in a favored industry against an exploited agriculture. It was conceded by the South as a sacrifice to build a nation. But it was a rule of social inequality, and it bore so heavily that in half a century its vast discrimination brought revolt, first in the South Carolina nullification, and eventually in civil war. That bloody struggle left triumphant the essential doctrine of unbalance, of great groupings of wealth, and of the subsidized industrialization of America. It carried us into the unspeakable era of reconstruction, when one-third of our country was exploited as a conquered province and the clock of its progress set back by half a hundred years. It brought an unparalleled era of corruption in both politics and business from the malodorous administration of Grant straight through the nineteenth century and beyond. Before we talk about the powers of government now being used unthrifly to help the poor we should remember the unchecked period of their prostitution from the Civil War to the late nineties for the magnification of the rich, and for that almost alone. Those were the days when the Government built the railroads and the favored grabbed them; when, under the guise of tariffs and the device of trusts and monopolies, our business baronies of unheard-of concentration of power and wealth had their foundations laid, and when, by dropping all barriers to immigration, we strove to create an industrial empire in export and domestic trade based on the products of imported and sweated labor.

The rollicking sea robbers of the High Barbary and the Spanish Main were just pikers compared to the pelf pilferers of this period, who ran riot on a scale so grand as to make merely a poor pirate bluish like a peony.

The Congress and most State legislatures were keyboards on which the favored could play—as on a piano—almost any time their greed might fancy. Government was the tail to the dog of privilege run to rabies.

Nobody suffered very much, because in days of depression there was always a new horizon. The busted citizen could load his family and his belongings into a covered wagon and go to some new place for a new beginning. Land was cheap or free. There was some kind of market for everything. In that more primitive life, a family was not much good if it could not take care of itself in almost any surroundings. Even that way of escape from ruin was rugged individualism.

That period of legalized piracy was the era of pioneering. It was the hey-day of the rugged ones—whether a wolf of Wall Street, a Pittsburgh iron-monger, a copper king, a forty-niner, or the more homely conquerors of the great West—they were a breed that asked help of nobody and of God, approval only, and sometimes not even that. We needed that breed to build a nation.

Now all this is not to be too cavalierly condemned. It was exploitation in the grand manner, but it did people a continent, fashion the strongest industrial and commercial unit in history, and create the wealthiest and most powerful Nation on which the sun ever shone. Its champions point to this bright record of accomplishment and say it could not have been made on any other plan.

Perhaps that is right. But it is a tale that is told. The policy of privilege did some good, but it prepared great harm. Because it has become a pestilence, it had to be remodeled and the new deal did it.

At the turn of the century a new era began and lasted until the great depression. Industrialization, mechanization, and concentration were about to go to unheard of extremes. Even before 1900 this process had become so alarming that Congress began its futile antitrust legislation. It was just a gesture. In 1912 the old Bourbon rule was broken for a moment by the election of Wilson. He tried to make the gesture effective by the Federal Trade Commission and the Federal Reserve Board. It was not enough. They did not stop—they did not even check—the break-neck centripetal pace in which our vast corporations assumed their present stature, the field for industrial jobs was narrowed, agriculture was ruined, and small individual enterprises, in practically every line of human endeavor, were being snuffed out like candles at curfew in a sleepy town.

In the early part of that period there was, roughly, 1 small manufacturing enterprise to every 400 of our population. Toward the end of it there was 1 to 900, which was a reduction by more than half of that field for rugged individualism. In the same period million-dollar concerns more than doubled their piece of the whole business pie at the expense of little fellows. By increasing the use of automatic machines, industrial output per worker was almost doubled (85-percent increase), thus nearly cutting that field for individual effort in two. By 1929 the 200 largest corporations controlled about half of our total corporate wealth—rugged individualism was getting to be a joke.

The era of mergers began. In manufacture, commerce, and finance groupings of wealth and power, already of stupendous size, were rushed together to form new groupings of monstrous proportions—the collectivism of wealth, economic soviet for private gain, a communism of privilege which was rapidly threatening to control the very means of life of the whole population.

At the rate of concentration of control of all human effort and of the elimination of all small enterprise—including jobs—(before it was interrupted by the new deal), it is no exaggeration to say that it would have been a matter of only years until, with one exception, there would have been few, if any, people in this country not dependent upon some monster corporation for wages, salary, income, or pension, and not at their complete mercy in the question of price.

The exception would have been agriculture—which is the step-child of the old Bourbon formula—and agriculture was rapidly rushing toward a status of pure peonage.

There cannot be honest argument that exactly this state of affairs was not both the purpose and effect of the same Tory policy that was first stated by Alexander Hamilton, that moved to victory at Appomattox, that degraded the South for a generation, plundered our natural resources, seized our facilities for transportation and power, and concentrated in great groups the substantial control of our manufacture, finance, and commerce.

There is no doubt that great benefits came from this system to a large part of our people for a good many years. Mass production enabled these great industrial and financial groupings to make large profits, but it also paid better wages, created a higher type of employment, and resulted in a magically low price for such facilities as automobiles, electrical equipment, and many of the necessities and luxuries of life.

These benefits are also a proper pride to those of the old Bourbon faith whenever the subject comes up for discussion. Some benefits did trickle through grasping fingers to the grass roots. But greed was greater than prudence. They did not have sense enough to let enough trickle to keep the system going. They rubbed out the individual opportunity of so many people and they concentrated so much of the produce of the plan they had created in so few hands and so few places that there were not enough consumers left to take the products of their plants.

The wreckage and the ruin of this hour are proof positive that we have come to the end of an area and that the old Bourbon formula of government of, by, and for the wise, the good, and the beneficent has got to be modified if our political and economic systems are to continue to exist. That modification is the new deal—but again that is ahead of our story.

The war found us just entering a third stage in the industrialization and mechanization and concentration of this country. In early 1914 the red flags of warning were already flying over the system. Prosperity was lagging for lack of customers with the power to buy, when suddenly, in Europe, there appeared the most demanding customer this country ever served—war, whose capacious maw takes all that farms and factories can produce at any price and cries for more.

Every factory went into high speed. The index of all prices went up to about 260 percent of the pre-war level. After we got into the war and withdrew altogether nearly 7,000,000 individuals for military or auxiliary service there was an overwhelming demand for labor which increased the total of wages to astronomical figures. The prices of farm products might have gone to unprecedented levels if, after our entry into the war, Mr. Hoover had not, contrary to the specific promise of the administration, held them down by the unauthorized and illegal use of the sanctions of the Lever Act.

Despite the short depression of 1921 and 1922, the seeds of a vast future prosperity for the United States had been sown, but with those seeds were also sown the tares and thistles of future grief.

Industry in the war had learned the lesson of cooperation. Under war legislation we had literally reorganized our economic structure, eliminated waste, and integrated production within separate areas, but, above all, industrial management had learned the lesson of higher wages.

It is literally true that the dissemination of purchasing power among farmers and wage earners due to a practical revolution of the theory of wages and fair farm prices increased the post-war consuming power of the domestic market for industrial products by more than 40 percent in a period of a few years.

Therein lies the secret of our future. Our task is to enrich this domestic market of ours for the products of farms and factories. The way to do that is not concentration of opportunity but distribution of opportunities. Open the fields for small individual enterprise; stop wiping them out; raise wages; shorten hours; see to it that we have neither favored nor underprivileged classes. Cease our idolatry for mere bigness and restore our agriculture to parity with industry.

That is the new deal. If we can only do that, we shall see the greatest prosperity this country has ever known.

Although the war period must be acknowledged as abortive, at least it was one of those rare eras in our history since the Civil War when the organized appetite of the old Bourbon aristocracy of wealth had passed out of power and the disorganized mob of the democracy was piloting the ship of state. The 12 years of the return of the Bourbons, when Woodrow Wilson surrendered his stewardship to Warren Gamaliel Harding, are worthy of remark.

At the beginning of that period the gold of the world was in our vaults or destined to them. From the position of the greatest debtor in the world we had moved to the front as the greatest creditor in creation. To replace the submarine sinkings, which at one time threatened to wipe the British mercantile fleet out of existence, we had increased our shipbuilding capacity 10 times in 10 months, until it was the greatest in the world, and for the first time since the destruction of the American merchant marine in the Civil War ocean commerce under the Stars and Stripes had advanced to the foremost position on the seven seas.

We had financed and fought a world conflict without scandal, fraud, or politics, an unparalleled record in war government. Our machinery for production was intact and the starved demand of a shattered world reached out to it.

The gallantry of our soldiers and the devotion of our people bespoke the spirit of a great crusade. We were still looked upon as the saviors of allied victory. We alone had come to the peace conference "with malice toward none and charity for all." We stood at such a peak of economic strength, of domestic righteousness, and of international leadership as had never been occupied by any nation. That was the contribution of the same philosophy of the new deal to the science of government in America. With this shining heritage, the material and spiritual fate of this country, and of the whole world, passed back under the Bourbon yoke in 1921.

Let us smother our distaste and review hastily the sordid chain of immediate events—the breach of highest public trust in naval oil reserves, in funds for crippled veterans, and custody of alien property. Induced by examples of notorious corruption in the shadow of the Capitol, a fog of civic evil seemed to rise throughout the land. In 2 years it had stifled the clear moral atmosphere of the war period and smirched our high repute. Government was at once in contact with all that is worst in big business, and indeed with all that is worst in our national life. From that contact sprang a brood of bad beginnings. Politically planned by Bourbon leadership to "give the wets their liquor and the drys their law", the new organization for prohibition enforcement now came to corrupt public office, to debase Federal courts, to degrade all law, to destroy most of the great guaranties of our Bill of Rights, and to create fierce popular dissension which flared forth in 1928 in response to furtive acts of campaign management which stirred up shameful bigotry and intolerance throughout the country.

It gave our language and our people new and hateful words and institutions—"racketeering", "hi-jacking", "bootlegging", and systematized murder. These new practices financed and created

a vast undercover criminal organization which affronted our whole country with its audacity and power and remained until, under the new deal, it has been driven like the Gadarene swine of evil spirits down the precipice to destruction. We shall never know whether effective enforcement was ever possible. We can only be certain what dead-sea fruits it bore in the ruin of an "experiment noble in motive" at the hands of experimenters noble in nothing.

Within 2 years whatever of honor and faith and sure intent our Government had assumed had been smirched and tattered beyond recognition.

In the field of economics, released from the scrutiny of any eye watching over the public interest, and the restraint of any hand imposed for the public good, old tendencies of rapacity, raving, and greed came back in tenfold strength in banking, in the stock and commodity markets, and in the whole field of industry and commerce.

Men played for high stakes with other people's money, gambling at fearful odds and seemingly in no sense of fiduciary responsibility whatever. Pity was piffle, greed was a virtue, and business honor was little more than a word in a schoolboy's copy book.

With the savings of the people so freely to be used and with so little account ability under the law, money was available in boundless floods to speed up the scarcely arrested concentration of industrialization, mechanization, and monopoly of great groupings in every field of human effort.

Anticipating a never-ending flow of this easy magic of fake prosperity, the facilities for production by monstrous corporate groupings were multiplied beyond any possibility of normal use. Miraculous profits were created on a constantly increasing inflation of both production and demand, financed by the mortgaging, first, of every element of value in the country—next, of every prospect of increased value—and finally, of every future hope.

It was a Bourbon paradise, the all-time high of the Hamiltonian dream, but it was rotten to its very core.

It had proceeded with the degradation of agriculture to a point where farm buying power was rapidly approaching the vanishing point and this traced squarely back to the very foundation stone of the original Bourbon policy.

It had substituted machines for men at such a destructive rate that, at the height of that fake fantasy of prosperity, there were no less than 3,000,000 employables without jobs.

It had permitted such an extravagant concentration of the profits of a vast production—in the hands of a wealthy few, in swollen corporate surpluses, and above all, in a vast multiplication of all facilities for production and luxurious living—that there was not enough left to keep distributed among the more than 100,000,000 producers the means whereby to consume and enjoy the things they produced. While it created a Frankenstein of productive facility, by that very act it literally strangled and destroyed the domestic market on which alone that producing monster could continue to survive.

By pressing too hard and too rapidly its self-created powers and privileges, the old Hamiltonian theory had become the author of its own destruction.

In 1928 all this was still within the limits of control, but signs of approaching madness were everywhere apparent. We should not forget that summer. It was a season of high-pressure selling, lavish spending, headlong increment of debt—a heyday of promoters, sloganeers, and mushroom fortunes, a time of opportunism, persistence in any course, however unsound, if, for the moment, it promised to get by. Into this feverish atmosphere was launched the 1928 campaign. But in the cool detachment of a Dakota camp, a canny little New England President had typed on slender slips of paper, "I do not choose to run."

The successful candidate could see the dangers clearly, and he stated them obscurely. At Boston, toward the close of his campaign, Herbert Hoover warned the industry of this country that its productive capacity had far outrun any possible power of the domestic market to consume.

Standing there he wrote his prescription for the people, in which he said he saw no disaster, because by continuing our policy of lending billions to backward and crippled countries we could abolish poverty by capturing the markets of the world and selling all that we could produce regardless of the exhausted capacity of our people to consume.

At that very moment the fat was in the fire. The storm that rumbled threats through the next 12 months had been brewing for 25 years. It was the old deal, the climax of the ancient Bourbon philosophy, in a complete concentration of wealth, producing power and arbitrary control of all economic forces in the hands of too few people for the purpose of private gain.

The dizzy dream of the abolition of poverty did not come to an abrupt end. During the year following the election every device was used to postpone the evil day. The zigzag curve of the stock market became the chart of the Ship of State. Whenever it showed any sign of lagging some act of the Government or some word of an official was used to spur it upward. This country will never forget the speculative frenzy of early 1929.

The "great engineer" had a rapidly running bear by the tail. He could not turn it loose. If he allowed it to slow down, it would eat him up. The only thing he could do was to punch it in the rump to make it run faster, and this he did with all the governmental power at his command.

The crash of 1929 was inevitable. The culmination of Bourbon policies had left this country defenseless against collapse. The people had nothing with which to resist. They had only an overwhelming burden of debt. The banks in which their savings were held had devoted them to destruction. There was no help in agri-

culture, because it, too, was ruined. There was no buying power among workers to sustain production, because everything they had accumulated was swept away.

The most tragic effect of Bourbon bigness and industrialization was suddenly revealed. These great industrial monsters which had become the source of 70 percent of all factory employment had specialized our people. They had become cogs in a machine. When the machine flew apart, they were just scrap metal.

No longer was the trail to the West an open road to high adventure. There was no more free cheap land; and if there had been, these people would have starved to death upon it. The tragedy of unemployment could no longer be avoided by referring these specialists to their rugged individualism. The old Bourbon plan had plowed that under. There is little individualism left for natural persons. The only individualism now is the ruggedness of vast corporate groups. They howl against collectivism, but they have created collectivism on a scale which even Karl Marx never dreamed, and left it on our doorstep.

The struggle is not overcollectivism but overcontrol of collectivism. Shall the masters of these great groups control it for their private gain as Alexander Hamilton proposed, or shall the people retain the last word in the economic government of their daily lives? That is the essential question of the new deal.

The full depth of the collapse of 1929 was not known until March 1933. The record of that catastrophe is too recent to recount. Every bank in the country had to be closed. Agriculture was completely prostrate. The buying power of factory pay rolls was literally at the lowest point in this century and relatively at the lowest point in our history. In desperate competition for the small remaining business, wages had been cut so far and hours extended so long that, at its worst, unemployment was probably not less than 15,000,000 people. Failures of small business enterprise mounted to fantastic heights. Only the strong survived. It is no exaggeration to say that in that terrible month of March 75 percent of our people could not look forward to the summer with any confidence that they would have a roof over their head or food for their bodies.

The great leaders of industry simply abdicated. I know, because I was in the midst of it. The cry was "All is lost save honor." They flocked to Washington with every kind of proposal for the new administration to step in and save them. Not the least extreme of these was the prayer of the president of the United States Chamber of Commerce that industry be turned over to the President of the United States with practically dictatorial powers.

For N. R. A., the leading industries of this country stood on the doorstep of Government and begged for it, or for something much more drastic. Respecting A. A. A., there was no opposition worth the name. It is true that some lobbying associations of industry sought changes in the drafts of bills to mold them nearer to their heart's desire. In the main, N. R. A. had the approval of industry in all except one troublesome clause affecting labor. What is now said of these recovery measures? Let me quote from the press some words attributed to a "chairman" here: "Arbitrary political action in defiance of economic science and the advice of competent authority * * * forced upon the country in violation of individual rights."

The author of those words either does not know what he is talking about or he would not recognize the Goddess of Truth if he saw her stalking naked through the streets. As far as N. R. A. is concerned, his general indictment, "hastily drawn, arbitrarily passed, and all of which has discouraged enterprise and retarded recovery", is another unconscionable—well, it is subject to the same remark.

N. R. A. was based on a plan first proposed in December 1918 on the experience of the War Industries Board, and thoroughly and completely discussed at frequent intervals throughout all the intervening years. The National Recovery Act, in both its titles, had been studied, charted, and projected for nearly a year. Title II of that act, which was the only part of it that was intended to cost the Government any great sum, was a project for public works based on a policy proposed—among many others—by the great engineer himself and a very important group of economists—if economists are ever very important—which principle has been adopted by practically every great nation during the world depression.

It said that N. R. A. was coercive. That is not the truth. On the call of the President within 4 months after the law had passed more than 95 percent of employers who were affected by the act had voluntarily signed the President's reemployment agreement and by actual census count created 2,785,000 jobs. If ever in this country there was a spontaneous, voluntary effort at Nation-wide cooperation that was it, and if it was attended by any element of coercion or violation of individual rights I have never heard asserted what it was. There was not a code in the category that was imposed.

N. R. A. is for the moment gone, but there is not an industry—surely there are few little fellows in business and certainly there is no worker in America—who would not go back to it tomorrow if they could have their way. It has been said that N. R. A. increased prices. That is a stark untruth. From the moment it had effect the N. R. A. group of prices leveled off and have been the most stable of any in the whole price structure. It is said that N. R. A. retarded recovery by reducing real wages. That is equally untrue. From the lowest point of the century N. R. A. increased real wages by 30 percent back to the 1910 level.

It is charged that N. R. A. hurt the little fellow. That is an equal libel. From the highest relative rate in history failures of small business dropped under N. R. A. to the lowest relative point in history—lower even than during the fantasy of fake prosperity. This

same critic before you, after deploring "the tone of partisan prejudice and preconceived judgment on both sides", opened his mouth and let out of him the following diatribe on the new deal, "unscientific, wasteful, extravagant, tainted with political motive, hastily drawn, and arbitrarily passed."

As an economist he says, " * * * I reject and condemn the entire recovery program as unsound in principle, impractical in operation, and harmful in result." There, I submit, you have one of the most impartial, unprejudiced, finely reasoned, logical, and incontrovertible dissertations that have recently fallen from lips of men.

I come to you from a new job that has to do with the destitution, utter and complete, of about one and one-half million human beings in the city of New York.

We are employing there in a professional and administrative capacity all kind of executive and professional people who have seen better days, whose duty it is to plan the further employment of people of all walks of life, all at wages barely sufficient to keep out hunger, thirst, and cold. I see these people daily, talk to them, and receive letters from them by the thousands. They constitute about 20 percent of the population of our greatest and richest city.

You go home after a day of that utterly sunk. I have had jobs, big and little, in my life—as wide a variety as any man I know—but none I ever had remotely compares in its power to take the heart out of you, with this daily immersion in the despairing grief, destitution, and growing hopelessness of more than a million people. Their chief remaining comfort is that the new deal pledges that no one will be allowed to starve or freeze. My God! think of that as a limit for the bright promise of this land of ours. There are 20,000,000 people in that slough of despond in this country.

I know something about the agricultural problem, too. On trips through a large part of the Nation I have made it my business to ride out in the country and talk to farmers on farms.

Before the new deal came they were nearly as hopeless there. It is an even greater tragedy for a farmer to lose his farm than for a worker to lose his job. It is his home, his chosen way of life, sometimes the tomb of his ancestors, and always it is of the very clay with which he was compounded. The new deal has saved agriculture.

In every walk of life the rise from that day of wrath in March 1933, when the President moved in like a rescuer, seized the banks, and preserved all that was left of savings from destruction, has been tremendous. When I remember the blackness of that moment in everybody's heart and mind, I wonder if any man in history ever salvaged so much of hope and courage or did so much to open the road to happiness to so many millions of desperate people.

With such thoughts in my mind, I read again what this patronizing critic says: "As an economist, I reject and condemn the entire recovery program as unsound in principle, impractical in operation, and harmful in result."

Not as a person, but as a type of condescending professor become pedant through years of academic wisecracking down from a dais to immature minds, I should like to take that economist by the scruff of the neck and baptize him three times daily in this pool of misery, this sea of despair, this ocean of hopelessness from which I have just come. Perhaps—though I doubt it—he would not be so glib in rejecting or even condemning the entire recovery program, either "as an economist" or as anything else. I doubt it because I note that he otherwise speaks as a "citizen who urgently prays for an end of the distress and privation of our people."

It is one thing urgently to pray for other people and it is another thing to spit in your hands, roll up your sleeves, and get down to doing something about it.

Perhaps if, "as an economist", he had stood in Washington in March 1933, when the whole economic structure of the Nation was tottering, and this distress of which I speak was 10 times more poignant and acute than it is now, and the great captains of industry became skulking corporals for the nonce, crying for Government to bail them out, he might then also have said that "as an economist" he rejected and condemned everything that was proposed or done; but I doubt that, too, because if he had said that, some of those industrial breast beaters would have bent a short section of lead gas pipe over the base of his medulla oblongata and dumped him into the Potomac River.

It makes me sick to hear a lot of people who in no crisis at any time ever did anything but talk now stand sneering at the work of other men's hands in the relief of the suffering of millions of human beings, and with professorial ponderosity assert that they, as economists, reject and condemn it as unsound in principle and all the rest of that pseudo-scientific tosh.

I would not have the nerve to stand here and try to defend the whole of the new deal. There is a lot of it in which I do not believe. I have stated quite frankly the grounds of my disbelief. I have criticized where I thought that the criticism was constructive. Like every other kibitzing commentator, I have advanced my own plans as better than some of the plans that were put into execution. It is a peculiarly American privilege to pan and to plan, and I claim the rights of my heritage.

But that is not the point. The point is that at the most dangerous crisis in our history, responsibility was bravely taken. Something was done and promptly done. The point is that nobody has gone hungry, or cold, or with any feeling that at the last extremity there is not some help. The point is that there has been no blood flowing in the streets, no riots against the peace of the community, no uprising against constitutional authority, notwithstanding that the policy of the old Bourbons, sustained under that Constitution, had left this country in such wreck and

ruin that no less than 1 out of 5 of us in this good day, in the sixth year of the same thing, does not for certain know where his next meal is coming from and is still deprived of the sorry right of every man to live under the curse of Adam—"In the sweat of thy face shalt thou eat bread."

So much for the purely emergency aspects of the new deal. They were necessary. They did the trick. They might have been done better, but that hindsight criticism is a contemptible reason for now asserting that they ought not to have been done at all.

The relief of suffering is costing this Nation five billions a year, and with my own eyes I have seen how pitifully little that is when spread over 22,000,000 sufferers—about 30 cents a day to keep a human being alive. It is a shocking thing—wasteful, extravagant, unsound in principle, and tainted with political motive.

Well, suppose you tried to cut it off. The Bourbons wouldn't dare, and this cost of mopping up their mess is not one tithe of the cost of the mess itself. Five billion dollars in a year. Why, in a few days in 1929 forty billions of value, more than the whole cost of the war, vanished like a drop of water on a red-hot stove. A treasure equal to the value of the British Isles was wiped out in a year. National income was cut by their blundering by no less than \$40,000,000,000 every year, and national wealth by \$200,000,000,000—and they talk about \$5,000,000,000 a year to keep the 22,000,000 victims of their blundering from stark starvation.

Another thing, the billions spent by the organized mob of democracy during the war were handled without one hint of graft peculation or even political advantage, and these multiplied billions are as free from those taints. But you never heard of Bourbon millions trickling through without somewhere, somehow a canny result in political advantage and not a little greasing of outstretched palms.

The so-called "reform measures" are a somewhat different matter—but to say that they should be deferred or omitted is to miss the whole point of the last two elections.

The people elected Franklin Roosevelt in 1932 under an overwhelming mandate to reverse the Bourbon policies of his predecessors. In 1934, with an even greater unanimity, they endorsed what he had done and they demanded that he continue.

In his campaign he laid down a program as clearly as words could state it. The basis of that program was, at every point of application, the essential philosophy of Thomas Jefferson as opposed to the essential philosophy of Alexander Hamilton. He was going to reverse those principles of government which had resulted in too much concentration of wealth, industrial and commercial power, and monopoly control of productive facilities. He was to attempt not so much to level down the peaks in our saw-tooth economic structure as to raise the valleys. He promised to bring a better day to the depressed segments of our population—to elevate agriculture from its quarter century of degradation; to wipe out, and, for the future, prevent, those extortionate abuses we all know existed in banking and in the stock and commodity exchanges. He proposed to see to it that the power of a few over the rights of the many to enjoy the products of their own labors should be lessened. He undertook to reverse the idea of government concentrated solely in the hands of the good, the just, and the beneficent. He promised to break the grip of privilege on public utilities. He repudiated the theory that it is better for all that the benefits of the country strain through a few funnels before they get to the grass roots, and he swore to substitute for that old Bourbon fallacy, the original doctrine of Thomas Jefferson, that it is in the direct and equal spread of individual opportunity that the strength of a nation lies. There is absolutely nothing new in this conflict of the fundamentals of the new deal with the Hamiltonian doctrines, whose history I have briefly outlined, to the point of their extreme application and partial ruin of this country under a succession of Presidents from the Hero of Appomattox to the Great Engineer. In spite of all the recent turmoil, he is a fool who indulges in the belief that by a sophistry the people of this country can be persuaded back to the principles of Hooverism, which are just the Hamiltonian principles running riot.

Who is it that complained of N. E. A.? Not the 20,000,000 workers affected or the millions of little fellows whom it saved from the rapacity of monopolies and chains. Who howls about A. A. A.—not the 40 percent of our population which is rural? Who objects to the regulation of banking and the exchanges? Not the tens of millions of consumers. Who groans under the security legislation? Not the 85 percent of us who dread old age as a period of dependency. And of all these things, little do consumers as a class complain.

Those are the essentials of the new deal, and who is it that stands in opposition? Why, those who sit at the receipt of customs. Small privileged groups of wealth and power, the beneficiaries of Bourbonism, the architects of our ruin, and the authors of all this distress. It is they whose paid propaganda has been so successful that we are actually here in a serious round-table discussion exactly as though there were anything of merit to discuss.

I will amend that—there is something to discuss; but it is not fundamental to the new deal. I thoroughly agree that there is going to be no appreciable return to prosperity, employment, and tranquility of mind in this country until business returns to a more normal pace. It seems very clear to me that no amount of Government spending can make an appreciable contribution to a permanent solution of unemployment or to any revival of business. I concur with the critics of the new deal that the constant threat to any kind of economic adventure for profit is retarding recovery. I pray as earnestly as any for a definition of plan and a cessation of new magic.

I am as firmly convinced as they that the fiscal policy of the United States must—at all events and immediately—be headed back toward the promise of our platform and the performance of early 1933—a balance between revenue and expenditure, and that income taxation should be based on a rule of maximum revenue and diminishing returns rather than on any social theory. I am aware that until the threat of monetary inflation by way of the printing presses is absolutely abolished, there can be no sound recovery. I know by personal experience that there is not sufficient coordination of the rapidly expanding activities of government and I hope as eagerly as any for the cessation of experimentation.

These ends I believe can be attained without the slightest impairment of the fundamental aims announced in the Democratic platform or the preelection promises of the President. Those promises, if carried out as here discussed, would not retard prosperity. By a vast enrichment of a balanced domestic market it would give us such prosperity as we have never known. Ninety percent of those promises have been fulfilled or are in process of fulfillment. Some of the departures from them were absolutely forced by circumstance. Others—it might as well frankly be admitted—were mistakes.

As to this penumbra of evils—this froth of errors—while I concede that it is still offsetting benefits from new-deal fundamentals, it is not, I take it, the main subject which you are here to discuss.

The great question for this conference and for the country is whether, having soon proved by the greatest economic catastrophe in history, the fallacy of the old Bourbon doctrine in its application to this new age, we are going to continue in the direction of a better balanced economy, under the general principles of the new deal or whether—because we have become impatient over the lack of any easy magic to end our present distress—we propose to return to the cause of that catastrophe and merit the cynical comment of Proverbs, "As a dog returneth to his vomit, so a fool returneth to his folly."

That I think we shall never do.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. McNARY. Mr. President, yesterday evening I objected to a proposal for a limitation on debate offered by the Senator from Arkansas [Mr. ROBINSON] because I desired further to study the matter. At this time I am willing to enter into the proposal which was made yesterday afternoon.

Mr. ROBINSON. I thank the Senator from Oregon. Then, Mr. President, I ask unanimous consent that hereafter debate be limited so that no Senator may speak more than once or longer than 30 minutes on the bill, or longer than 15 minutes on any amendment.

This is a slight modification of the request which I made yesterday, in that it is now proposed, while limiting the time of any Senator to 15 minutes on an amendment, to permit him to have a division of that time. I make the modification at the request of Senators on the other side of the Chamber.

Mr. McNARY. Mr. President, I am very glad the modification has been suggested. When I objected yesterday to the proposal for a limitation of debate, the Senator from Idaho made the suggestion which is now covered by the request of the Senator from Arkansas. I think the modification will clearly meet the views of the Senator from Idaho.

The VICE PRESIDENT. The Chair understands the request of the Senator from Arkansas to be that each Senator may have 15 minutes on an amendment and that the 15 minutes may be divided?

Mr. ROBINSON. I think it had better be stated the other way, namely, that each Senator shall have 30 minutes on the bill and 15 minutes on any amendment.

The VICE PRESIDENT. And only one speech?

Mr. ROBINSON. No.

The VICE PRESIDENT. That is the point the Chair did not understand.

Mr. ROBINSON. I tried to make plain that as to the bill there would be only one speech, but as to amendments each Senator may divide his time if he chooses to do so.

The VICE PRESIDENT. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

The clerk will state the next amendment passed over.

The next amendment passed over was, on page 38, line 1, to insert the following new paragraph:

"SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND BARLEY

"(5) If at any time prior to December 31, 1937, any tax with respect to flaxseed or barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. The provisions of section 16 of this title shall not apply in the case of flaxseed and barley.

Mr. COPELAND obtained the floor.

Mr. JOHNSON. Mr. President, will the Senator yield for a suggestion?

Mr. COPELAND. Certainly.

Mr. JOHNSON. I assume the Senator is going to attack this particular amendment. I have an amendment to the amendment which I desire to present, and I think the Senator from Minnesota [Mr. SHIPSTEAD] has an amendment which he desires to offer. Would it not be well to perfect the amendment before we enter into the argument in regard to the amendment itself?

Mr. COPELAND. Very well. I shall not take the floor at this time under the circumstances.

Mr. JOHNSON. Mr. President, to the committee amendment I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. In the committee amendment it is proposed, on page 38, after line 13, to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

Mr. KING. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah desire to discuss the amendment of the Senator from California?

Mr. KING. I desire to ask the Senator from California what is the purpose of the amendment?

Mr. JOHNSON. The design of the amendment primarily is to permit those States which have not what is termed by the Agricultural Department a history of 10 years in respect to the benefits which may be allotted, to participate in reality in those benefits for such flaxseed as they may have cultivated or raised. It is to put on a parity the States which would now be denied any participation in the benefits to be derived under the amendment with those which have a longer history of flaxseed production. If the Senator wishes the statistics, I can give them.

Mr. KING. No. If I understand the amendment, as I think I now do, it rather is an expansion than a limitation. It is rather a protection to the flaxseed producers who in the past have not produced this crop, rather than an inhibition against them.

Mr. JOHNSON. Yes.

Mr. KING. It is not intended to legalize any efforts heretofore made by the Department of Agriculture with respect to the control of flaxseed production or the limitation of prices or anything of that kind.

Mr. JOHNSON. No. For instance, the design is, in States where flaxseed has been raised for a period of 2 or 3 or 4 years, to give them the benefits of the amendment as well as States where flaxseed has been raised for 10 years, the 10-year limitation being the one which is now used by the Department of Agriculture.

Mr. KING. I am in sympathy with the amendment, but should be glad to see the whole procedure eliminated.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from California to the amendment reported by the committee.

Mr. NYE. Mr. President, I wonder if the Senator from California would be willing to withhold his amendment until

my colleague [Mr. FRAZIER] reaches the Chamber? He is now on his way here and desires to say something with reference to the amendment.

Mr. JOHNSON. I am willing to do so, of course. I submitted the amendment to the Senator from Minnesota [Mr. SHIPSTEAD]. I was under the impression I had submitted it to the Senator from North Dakota [Mr. FRAZIER], although I may not have done so.

Mr. NYE. My thought is that under the amendment which the Senator from California has offered, the way is broken for a larger production of flaxseed than during the limited years when the plan has been operative as to flax.

Mr. JOHNSON. I think that is undoubtedly true.

Mr. NYE. I am sure my colleague is prepared to speak upon the amendment and that he will desire to be heard. I hope the Senator will withhold his amendment for the time being.

Mr. JOHNSON. Of course, if it is requested, I shall give the opportunity to any Senator to present such argument as he may desire.

Mr. McNARY. Mr. President, will the clerk be good enough to state the amendment again? I did not understand it clearly when it was first read.

The VICE PRESIDENT. The clerk will again state the amendment.

The LEGISLATIVE CLERK. It is proposed on page 38, line 13, to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

Mr. McNARY. It would appear to me that the major design of the amendment is to grant benefits up to the point where there is a surplus produced in this country and that thereafter the amendment shall not be operative. Is that correct?

Mr. JOHNSON. Yes; that is correct.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from California to the amendment reported by the committee.

Mr. JOHNSON. I agreed to withhold the amendment until the Senator from North Dakota [Mr. FRAZIER] may reach the Chamber.

The VICE PRESIDENT. Very well. The amendment is temporarily withheld.

Mr. SHIPSTEAD. Mr. President, I offer an amendment to the committee amendment, which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment offered by the Senator from Minnesota to the amendment reported by the committee.

The LEGISLATIVE CLERK. In the committee amendment it is proposed, on page 38, line 13, after the word "barley", to insert the following:

In the case of flaxseed the first marketing year shall be considered to be the period commencing October 1, 1935, and ending April 30, 1936. Subsequent marketing years shall commence on May 1 and end on April 30 of the succeeding year.

There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to flaxseed) (a) a processing tax on the first domestic processing of perilla seed at the rate equal to the per pound rate of the processing tax which is then in effect on flaxseed, and (b) a processing tax on the first domestic processing of hempseed at the rate of 84 percent of the per-pound rate of the processing tax which is then in effect on flaxseed.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee.

Mr. McNARY. Mr. President, from the reading of the amendment I do not understand it. Probably I would not anyway. I wish the Senator from Minnesota would explain definitely what he seeks to accomplish.

Mr. SHIPSTEAD. Mr. President, as I understand the bill, its purpose is to give a parity price to American agricultural products and to make the parity effective. That is the only

reason I can find for supporting any part of the bill—to make the American farmer a part of the economic system placed upon us by the high tariff. I did not vote for the Hawley-Smoot tariff, but if that is to be the policy—and it is the policy—the only excuse I can find for the bill is to put the farmer within the tariff system.

The parity price of flax is \$2.25 a bushel. We import 70 percent of the material for which flaxseed is used. The price of flax is \$1.52, while the parity price the farmer ought to receive is \$2.25.

The competitors of flaxseed, from which linseed oil is made, are particularly perilla oil and hempseed oil, imported products, which are admitted free of duty. Imports from 1930 to 1935 of perilla oil and seed have increased from 8,750,000 pounds to 34,800,000 pounds, something like 500 percent. The importation of hempseed oil, another competitor which comes in free and is sold against the American farmers' production of flaxseed, has increased 1,200 percent. The reason why the tariff on flax is not effective is because of the competition of these products which come in free. The amendment of the committee is worthless without the adoption of this perfecting amendment proposing to put a compensatory tax on the competitors of flaxseed and linseed oil, just as a compensatory tax is placed upon the competitors of soybeans and the other products which are included in this bill.

Mr. KING. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. Yes; I yield.

Mr. KING. The Senator undoubtedly is aware of the fact that linseed oil is indispensable in the manufacture of paints, and paints are indispensable to farmers. They must paint their houses and their barns.

Mr. SHIPSTEAD. Yes.

Mr. KING. It is an indispensable commodity in their economic life. Perilla oil is used extensively, as I recall, in the dressing and protection of various forms of leather used in the manufacture of shoes and boots, and so forth; and the other oils to which the Senator has referred, and which are coming into the United States, are used extensively in the manufacture of various commodities which enter into the lives not only of the farmers but of all classes of people.

If the amendment which the Senator has offered shall prevail, obviously it will materially increase the price of linseed oil, to the disadvantage of the farmers and the disadvantage of those who are now seeking, under the great housing drive, to build homes and to improve their homes. It will materially increase the price of leather to those who manufacture harnesses and shoes and all forms of leather goods, so that the prices to the American people will be substantially increased by reason of the adoption of this amendment.

Personally, if we are to enact legislation of this character, I should prefer to vote a direct subsidy to flaxseed producers and thus save the American people millions of dollars in the form of increased prices which would result from the triumph of the plan suggested by the able Senator from Minnesota.

Mr. SHIPSTEAD. I am glad to have the Senator's views. I have been familiar with his views for some time. However, both the Republican Party and the Democratic Party as such put over the Smoot-Hawley tariff bill. The argument which the Senator advances against the increase in cost of paint is well taken. That is the argument always used in arguing against the tariff.

I do not find people feeling sorry for the farmers who have to pay high prices for machinery because of the tariff on steel, and the additional tariff in the way of increased railroad transportation they have to pay. It is part of the system.

Here is a commodity which the American farmer raises. He desires, in self-defense, to get within the system under which he has been suffering ever since the Civil War; and I expect Senators who hold different views from those I entertain to be as consistent as I am. I make no apologies for putting the farmer into the system which has been forced upon him.

Mr. BAILEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from North Carolina?

Mr. SHIPSTEAD. I do.

Mr. BAILEY. I wish to propound an inquiry to the Senator. I share his view that since industry enjoys protection, and the farmer does not, he is entitled to compensation in order to equalize his economic situation.

The Senator has taken the view that the processing-tax is in the nature of a protective-tariff tax, has he not?

Mr. SHIPSTEAD. Indirectly, I should consider it so.

Mr. BAILEY. Let us see if it is indirectly or directly. The processing tax is a tax on the produce of the farmers of America.

Mr. SHIPSTEAD. Yes.

Mr. BAILEY. A tariff tax is a tax on the produce of the foreigner sold over here.

Mr. SHIPSTEAD. That is true.

Mr. BAILEY. I should like to have the Senator reconcile his statements in view of that fact.

Mr. SHIPSTEAD. It is a tax on what?

Mr. BAILEY. The protective tariff is a tax on the product of the foreigner, on goods sold here.

Mr. SHIPSTEAD. Yes; for the protection of the American industrialist.

Mr. BAILEY. Yes. The processing tax is a tax on the product of the American farmer.

Mr. SHIPSTEAD. Yes.

Mr. BAILEY. Wherein is there any analogy whatever between the protective-tariff tax and the processing tax? That is my question.

Mr. SHIPSTEAD. Because both are a tax on the consumer, and the consumer pays both. The objective in one case is achieved in one manner, and in the other case it is achieved in another manner. The objective of getting a better price for articles of domestic manufacture is achieved by taxing imports, but paid by consumer in higher prices. The objective of getting a better price for farm products is achieved by a tax upon the consumer for the benefit of the American producer.

Mr. BAILEY. Upon the domestic product; and it is not necessarily a tax upon the consumer. It may be a tax upon the produce of the farmer. It may be passed forward, and it may be passed backward. Is not that true?

Mr. SHIPSTEAD. Of course, that may be true. I do not care to argue that matter with the Senator. When the original Agricultural Adjustment Act was passed, it was decided by the Senate that the tax would be passed on to the consumer, just as the protective tariff tax is passed on to the consumer. So far as I can see, that was the only excuse for the legislation. This is only an incident in the legislation; and I hold that it is absolutely consistent with the legislation originally passed, and with the amendments which are proposed.

Mr. BAILEY. Certainly the protective tariff enables the American to sell his product in America as against the foreign competitor.

Mr. SHIPSTEAD. At a higher price.

Mr. BAILEY. Is there anything in this measure which will enable the American producer to sell his goods in America by way of protection as against any foreign competition? Is it not more proper to say that this is a bounty derived from the processing of the farmer's goods and returned to the farmer at the expense of the consumer, if possible? There is a question as to how, and how long, and under what circumstances it can be done; but is there an analogy? In other words does the processing tax in any way justify a protective tariff?

Mr. SHIPSTEAD. That is altogether another question. I hold that the processing tax and the benefit payments are a bounty to the American farmer in the same sense that the protective tariff is a bounty to the American industrialist. If we are going to have parity—and an essential of government is equality before the law—if we pass a law giving bounty to the American industrialist we must give a bounty to the American producer of the raw material, the food which feeds the people who work for the industrialist.

The farmer has fed this country for less than the cost of production. He has been exploited. Here is a product among

many others which he has been forced to produce for less than cost of production and for less than a parity price; and if the rest of the legislation is justified, this is justified. If the protective tariff is justified, this form of legislation is justified—I mean, as to its objective.

Mr. BAILEY. The Senator is now saying the processing tax is a bounty. My point is, can it be said that it is in the nature of a tariff? Does it have any analogy whatever with the protective tariff? That is my question. I will agree that it is a bounty, and it is a bounty derived from the product of the farmer, if we wish to give a bounty in that way.

Mr. SHIPSTEAD. It is a bounty assessed upon the consumer.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. In just a moment.

The farmer, under our protective-tariff system, has been in the position of a man selling cheap and buying dear. It is inevitable that he must sell cheap, because he is an exporter. He must sell on the world market. He must meet the competition of the world, and therefore he must sell cheap. When he pays a protective tariff on practically everything he buys, he buys dear, and he pays a penalty for the benefit of the industrialist. I fail to see how there is anything inconsistent between a benefit payment to the farmer taxed upon the consumer and a benefit payment collected by the industrialist and taxed upon the consumer.

Mr. BAILEY. I am not arguing the question of inconsistency; but I was very much struck by the Senator's statement that there is an analogy between the processing tax and the protective tariff. I cannot see the analogy between a tax on goods produced in Europe by others and shipped in here and a processing tax on produce grown by Americans and sold in America. I cannot see where the protection comes in. I can see where there is a bounty.

Mr. SHIPSTEAD. They are both bounties. The protective tariff is nothing but a bounty, and this is a bounty, too.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. LOGAN. Is it not true that a protective tariff imposes a tax, at least indirectly, upon the consuming public which constitutes a bounty to be paid to the manufacturer, and that the processing tax, if we call it that, also imposes a tax upon the consuming public for the benefit of the farmer, and that the two in operation are exactly the same, regardless of the names by which they are called? If we did not have a protective tariff, would there be any necessity for a processing tax such as we are discussing?

Mr. SHIPSTEAD. I do not think so.

Mr. LOGAN. That is the only way to equalize the condition of the farmer in the necessity to which he is put in dealing with manufacturers who are protected and receive a bounty. Is not that true?

Mr. SHIPSTEAD. Yes.

Mr. LOGAN. There is no other justification for it.

Mr. SHIPSTEAD. I can see no other justification.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the committee amendment.

Mr. KING. Mr. President, I should like to ask the Senator from Minnesota if he construes his amendment as continuing the provisions of the bill, so far as flaxseed is concerned, for an indefinite time. It mentions the fact that it is for the year beginning at a certain period and ending in 1936, and each succeeding year. Does he construe that as a declaration by Congress that the provision respecting flaxseed shall continue indefinitely until repealed by Congress? Or is it so intertwined with the A. A. A. act, which, as I understand, ceases to operate only when the President says the emergency has ended, that when he declared there was no emergency it would also affect the amendment which the Senator has offered, and terminate the benefits, if any benefits are to be derived under the amendment?

Mr. SHIPSTEAD. As I understand it, the pending bill is an amendment to the original act, and the original act provides for its termination; so I assume that carries with it all the amendments, and on the termination of the act all

the amendments to it will likewise cease to exist. At least that is my belief.

Mr. JOHNSON. Mr. President, inasmuch as the amendment I offered a few moments ago, which was a perfecting amendment, from our standpoint, has gone over, I should like to have the amendment of the Senator from Minnesota go over in the same fashion, so that the whole subject matter may be taken up at one time. I am now ready to proceed with my amendment, and proceed with the Senator's amendment as well, but I do not want one amendment adopted and another amendment left in the air. I want to know what the perfected amendment of the Senate is going to be in order to determine the action which ultimately shall be taken upon it. So I suggest to the Senator from Minnesota that his amendment lie over in the same fashion as the one I presented.

Mr. SHIPSTEAD. Mr. President, I think that is fair. Unless the amendment of the committee remains in the bill the Senator's amendment would be unnecessary. However, I am willing to withhold the amendment.

Mr. JOHNSON. I have no objection to the Senator's amendment, but I want to perfect the Senate committee amendment so that we may know exactly what it is, and then proceed with it as a whole.

Mr. SHIPSTEAD. That is satisfactory to me.

Mr. JOHNSON. The Senator from North Dakota [Mr. FRAZIER] is now present, and inasmuch as we delayed consideration of my amendment until his arrival, perhaps we may proceed with it. May I suggest, too, that the pending amendment is a Senate amendment, and the bill will have to go to conference upon the particular amendment, if upon nothing else, so the amendments to the amendment might be accepted with the understanding that in conference it will be taken up and the matters involved there considered.

Mr. MOORE. Mr. President, following the suggestion of the Senator from California, I, too, have an amendment which I should like to offer.

The PRESIDENT pro tempore. The parliamentary situation is that there is pending an amendment to the committee amendment. The Chair is not yet advised as to what action the Senator from Minnesota desires to have taken. In the meantime, there is an amendment presented by the Senator from New Jersey, which will take the same course, as the Chair understands, as that taken by the pending amendment of the Senator from Minnesota and the amendment of the Senator from California, which was passed over.

Mr. COPELAND. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. COPELAND. My plea was going to be to strike out the entire amendments, but now I assume that if the perfecting amendments are to have justice done them, there should not be any argument in favor of striking out all the language. It is only fair that the amendments to the amendment should first be presented.

Mr. SHIPSTEAD. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SHIPSTEAD. Does not an amendment to perfect have precedence over a motion to strike?

The PRESIDENT pro tempore. It does.

Mr. SHIPSTEAD. Mr. President, will the Senator from New York yield?

Mr. COPELAND. If I may ask the Chair a question, I suppose that my amendment would be in order only after the amendments to the amendment have been disposed of, if by unanimous consent it is agreed to have the amendments considered?

Mr. NORRIS. Mr. President, may I interrupt the Senator from New York?

Mr. COPELAND. Certainly.

Mr. NORRIS. As I understand, the motion of the Senator from New York is to strike out the committee amendment. That is entirely unnecessary. The question will come on the adoption of the committee amendment, so there will be a vote on that anyway. Before we vote on that we must take up the amendments to the amendment.

Mr. COPELAND. I think I will wait until the amendments to the amendment shall have been considered.

Mr. JOHNSON. Mr. President, has the question on my amendment been put to the Senate?

The PRESIDENT pro tempore. Does the Senator from Minnesota withdraw his amendment for the purpose of allowing the amendment of the Senator from California to be considered?

Mr. SHIPSTEAD. Very well.

The PRESIDENT pro tempore. The amendment of the Senator from California to the committee amendment will be stated. The clerk at the desk advises the Chair that the amendment is not at the desk.

Mr. JOHNSON. The amendment was taken from the desk, I may say to the Presiding Officer, by one of the experts here, and I do not know what has been done with it.

Mr. SMITH. Mr. President, someone handed the amendment to one of the experts, and it will be brought to the Senate in just a moment.

Mr. GEORGE. Mr. President, I desire to offer an amendment, to come at the end of the section, which will not, I will say to the Senator from California and to the Senator from Minnesota, interfere, I think, with the amendments which they are proposing. I should like to have the amendment considered, unless we are ready to proceed with the amendment of the Senator from California.

The PRESIDENT pro tempore. The amendment of the Senator from California has now been handed to the clerk, and it will be stated.

The LEGISLATIVE CLERK. At the end of the committee amendment on page 38, line 13, it is proposed to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from California to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, this is an amendment to the committee amendment on page 38, and has to do with flaxseed.

During the last session of Congress I succeeded in having adopted an amendment to the Agricultural Adjustment Act to include flaxseed, barley, and rye as basic commodities, but no action was taken by the Department to give the farmers producing those grains any benefit. In order to encourage the Department to take some action, and in order to get them started on it, I suggested this amendment in the committee, and I had included in it rye, along with barley and flax. I found from those representing the department before our Committee on Agriculture and Forestry that they had a paragraph prepared to cover rye, which appears on page 37, so rye was left out, but barley and flaxseed were included in this amendment.

The amendment simply authorizes a processing tax of 35 cents per bushel on flaxseed and 25 cents per bushel on barley. It seems to me the Senator from California is unduly worried over this matter, and I cannot see how it would affect the flax growers of his State. I know a considerable amount of flax has been raised in California during the past few years, and it was not my intention at all, in offering the amendment, to curtail those farmers in California in the least.

Ordinarily, during the past several years, until the drought struck us 3 or 4 years ago, North Dakota had produced more flaxseed than any other State of the Union, and the other States around North Dakota—Minnesota, Montana, and South Dakota particularly—have produced a considerable amount of flaxseed.

For years we have been selling our flax at prices below cost of production. We need some assistance. In the local market at Bismarck, N. Dak., on July 13 the price of no. 1

flax was \$1.24. The parity price, figured under the pending bill, is something over \$2; I have forgotten just the exact amount, but \$1.24 is away below the cost of production of flaxseed.

The farmers feel that if we are to have this agricultural adjustment program the ones who produce flax and barley and rye are entitled to some benefits, along with those who produce wheat and cotton and other farm products, and that is why I secured the adoption of an amendment to the original act to include them as basic commodities. They are important commodities, and we believe we are entitled to some benefit on them.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. VANDENBERG. I desire to ask the Senator from North Dakota for his judgment on one phase of the matter. I find that at the present time flaxseed is being imported in greater degree from abroad than at any previous time. What I desire to ask the Senator is, if by the addition of a processing tax to the price of flaxseed we increase the attractiveness of our flaxseed market will we not be overrun by still larger importations except as this proposal be offset by increased tariff protection?

Mr. FRAZIER. I do not understand what the Senator from Michigan means by an attractive market.

Mr. VANDENBERG. What I mean is that as our domestic price on flaxseed goes up, does that not make our market progressively more attractive to imports, and will it not multiply the import of flaxseed?

Mr. FRAZIER. The processing tax of 35 cents a bushel provided for in the committee amendment would be paid on all imports of flax before the flax is processed. All imports coming into this country for processing must pay the processing tax, and that would mean an additional 35 cents a bushel duty or tax.

Mr. VANDENBERG. That is what I inquired about.

Mr. FRAZIER. Instead of making the market attractive, that would make it less attractive to importers, because they would have to pay additional duties.

Mr. VANDENBERG. In view of the additional duties?

Mr. FRAZIER. Yes.

Mr. VANDENBERG. I was inquiring about the additional duty, which is almost absolutely necessary.

Mr. FRAZIER. No; I do not think we understand each other as yet.

Mr. VANDENBERG. Pardon me; I think we do. I am using the word "duty" and the word "tax" interchangeably.

Mr. FRAZIER. The processing tax of 35 cents a bushel, of course, would be paid on all imported flax.

Mr. NORRIS. Mr. President, will the Senator permit me to interrupt him?

Mr. FRAZIER. I yield.

Mr. NORRIS. I am in entire sympathy with what the Senator is trying to do by the amendment to the committee amendment, but, getting down to the exact question now before the Senate, what possible objection could there be to the amendment offered by the Senator from California [Mr. JOHNSON]? I do not see any objection to it if we assume, to begin with, that we want the committee amendment. I can see how a man would be opposed to this whole scheme and be against the committee amendment; but, speaking as one who expects to vote for the committee amendment, I should like to inquire of the Senator from North Dakota, or any other Senator for that matter, and I am doing it for information, what possible objection is there to the amendment which is offered by the Senator from California?

Mr. McNARY. Mr. President, I am not called upon to answer that question, but I wholly agree with the Senator from Nebraska. I cannot see why there should be any objection on the part of anyone to the amendment proposed by the Senator from California.

Mr. NORRIS. Neither can I. If there is any possible objection I should like to hear it stated.

Mr. KING. Mr. President, perhaps I can answer that question. The objection is that it would give a monopoly of the product to a couple of States. Perhaps we believe in such monopolies. If so, why not grant the monopoly?

Mr. NORRIS. No, Mr. President; I believe the amendment of the Senator from California relieves the bill of having any monopolistic tendency.

Mr. COPELAND. Mr. President, the Chamber is in disorder. There are some of us on this side of the aisle who are anxious to hear the debate. I raise the point of order that the Chamber is in disorder.

The PRESIDENT pro tempore. The point of order is well taken.

Mr. McNARY. Mr. President, may not the Senators who occupy seats on the floor preserve some order? I share the views of the Senator from New York. I am very much interested in what the Senator from Nebraska has said, and the reply of the Senator from North Dakota.

Mr. ASHURST. Mr. President, I have not heard a word of the debate on this particular subject this morning. It has been impossible to hear.

Mr. FRAZIER. In reply to the inquiry of the Senator from Nebraska I will say that personally I have no objection to the amendment of the Senator from California. I think, however, it would mean that the Department of Agriculture would take no action whatever in putting a processing tax on flax, or giving us any allotment payments, and for this reason: Since the amendment was adopted at the last session of Congress making flaxseed a basic commodity I have tried repeatedly to get the Department of Agriculture to take some action on the subject. Others from the Middle and Northwestern States, and especially representatives of the Farmers Union, who are interested in the production of flaxseed, have repeatedly tried to get the Department of Agriculture to take some action. The Department has not been able to work out any specific plan, or to take any action at least, but during the past winter, after several conferences, a representative of the Department of Agriculture, who had with him a draft of a proposed bill to take care of flaxseed, came to some of our offices and said that the only justification the Department had under the Agricultural Adjustment Act to put on a processing tax and pay a benefit payment was because of an adjustment which might be made in the production of that particular product. The Department had a bill worked out for flaxseed, which provided that the tariff should be reduced 50 percent approximately—cut from 65 cents down to about half of that amount—and that a 35-cent processing tax be put on flaxseed. The explanation was made that because we only produce about half of the amount of flax which we consume in this country, the 35-cent processing tax would more than offset the reduction in the tariff by making it possible for the Department to make a benefit payment of about 60 or 70 cents, and thus benefit the farmers who produced flaxseed. The Agricultural Adjustment Administration was to pay an allotment on flax based on the acreage of past years in the flax-producing States. Some sort of an agreement was to be signed up between the farmers and the Agricultural Adjustment Administration containing the provision that the farmers would not increase their acreage over what was termed a normal acreage during the past several years, and that if that agreement was signed, then the processing tax would be put on, and the benefit payments would be made.

The Senator from California thinks because California has only produced flax for the last 3 or 4 years that the farmers of California would not be included in this benefit payment. I do not know as to that. I do not think they would receive such payment under the bill which was introduced during the early part of the present session, but the provision now before us has nothing at all to do with that other bill. The pending provision simply sets the amount of the processing tax at 35 cents, and authorizes that amount. Then it would be up to the Secretary of Agriculture to say whether it would be placed into operation or not. According to the explanations made by representatives of the Department of Agriculture, if this amendment should be adopted, there would be no chance

of the flax growers, either in California or any place else, getting any benefit payments.

Mr. NORRIS. Mr. President, that, of course, may be true, but I am not able to see any reason whatever for it. We produce scarcely half of the flax which we consume. As I understand, if the production of flax should be expanded, it might be a good thing; but the person engaged in expanding it ought to be treated in the same way as the man who is now in the business. That would not hurt anyone. It would be a good thing if the production of flax were expanded.

Mr. President, I cannot understand the objection which is being raised. The Senator from North Dakota may be right about it, of course. I have never talked with the Department of Agriculture about the matter, but I cannot see any reason why they should refuse to take action on this basic commodity on account of what the Senator from California proposes.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. SHIPSTEAD. There can be no objection on the part of the farmers of Minnesota, North Dakota, and South Dakota to having more farmers produce more flax so long as there is no surplus.

Mr. NORRIS. That is true.

Mr. SHIPSTEAD. This amendment provides that there shall be no reduction in acreage until the domestic production shall have risen sufficiently high to take care of domestic consumption. When that time arrives then allocation for acreage will be made.

The PRESIDENT pro tempore. The time of the Senator from North Dakota on the amendment has expired. The question is on the adoption of the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the committee.

Mr. FRAZIER. Mr. President, then I will speak on the bill.

The PRESIDENT pro tempore. The Senator is recognized. He has 30 minutes on the bill.

Mr. FRAZIER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. FRAZIER. Does the 30 minutes have to be taken all at one time?

The PRESIDENT pro tempore. Under the unanimous-consent agreement, one speech of not to exceed 30 minutes is allowed on the bill, and not to exceed 15 minutes is allowed on each amendment.

Mr. VANDENBERG. Mr. President, let me ask the Senator from North Dakota a question in my time. I am now speaking on the amendment. May I ask the Senator if this is not the crux of the situation, so far as the Department of Agriculture is concerned? They have a theory, or some officials of the Department have, that there should be a specific limitation upon certain crops which they call either "expensive" or "inefficient"—I have forgotten the exact word. It is precisely the same philosophy with which they have dealt with the production of sugar beets. They say, "this is an inefficient crop from an American production standpoint, and, therefore, although we are not on a surplus basis, and although we are raising only a quarter of our consumption, there should be a sharp limitation, and there should be no further domestic production." Now, may I ask the Senator from North Dakota, in my own time, if that is a comparable situation respecting their philosophy as to flax?

Mr. FRAZIER. Mr. President, I think flax is one of the so-called "inefficient" farm products produced here as to which it is desired to make international trade agreements with foreign countries and not to increase their production here in the United States. I think that is the situation.

Mr. VANDENBERG. Then, if we are defeating that sort of dictation by the Department of Agriculture by including this amendment in the amendment, it seems to me that is what we should do. Why is it not a good thing? The Senator from North Dakota does not believe in that philosophy of the Department of Agriculture, does he?

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. VANDENBERG. Yes.

Mr. FRAZIER. I surely do not believe in that policy at all.

Mr. VANDENBERG. Then why not defeat it in this bill?

Mr. FRAZIER. I have no objection to the amendment of the Senator from California.

When the tariff bill was up, I tried to secure on flaxseed a tariff of 72 cents a bushel; but it was cut down to 65 cents on the ground that we only produce half the amount of flax consumed here. I felt that there should be a higher price so that we could produce more, for there was plenty of room for expansion in the growing of flaxseed if we could obtain a price based on the cost of production.

Mr. VANDENBERG. That would be precisely my conception. The feature of the amendment offered by the Senator from California which appeals to me is that it asserts on behalf of the Congress that that type of restriction of a non-surplus crop ought at least not to be perpetrated in the present instance.

Mr. COPELAND. Will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from New York?

Mr. VANDENBERG. I yield.

Mr. COPELAND. I should like to ask the Senator from North Dakota does the tariff or the lack of a tariff have anything to do with the production of flax?

Mr. VANDENBERG. I would be very glad to have the Senator from North Dakota answer that question in my time.

Mr. COPELAND. I will repeat the question. Does the Senator from North Dakota believe that the tariff or the lack of a tariff has anything whatever to do with the decreased acreage of flax?

Mr. FRAZIER. Mr. President, I do not think there is any question but that the price of flaxseed governs, to a great extent, the quantity produced in the United States. The 65-cents-a-bushel tariff, I will admit, has not been effective to the full extent, but it has been effective probably to 60 or 70 percent. There may be some question as to just how much, but the tariff has had a tendency to increase the acreage of flax in normal years.

Mr. COPELAND. The tariff or the lack of it has nothing to do with the grasshoppers; it has nothing to do with the early frost.

Mr. FRAZIER. Of course not.

Mr. COPELAND. The Department of Agriculture states that the reason why there has been a marked decrease in the acreage of flax is because of the grasshoppers and the early frosts in the flax-producing region. It is stated in the report of the Department of Agriculture:

(a) Flax sensitive to heavy frost, which requires late planting, subjecting it to greater hazard from drought.
(b) Susceptible to grasshopper scourge.

So that the farmers, having discovered that, no longer plant flax. Am I correct in that statement?

Mr. FRAZIER. Of course, drought and grasshoppers would decrease the acreage of flax; there can be no question about that; but if the price can be raised, the acreage will come back very rapidly since the drought has been broken.

Mr. COPELAND. What will the price have to do with grasshoppers and frost?

Mr. FRAZIER. I am not trying to answer that part of the Senator's question. The grasshoppers have nothing to do with the price of flax. Normally one would think the price of flax would rise under a scarcity, but the price has not come up; it is lower now than it has been for years.

Mr. COPELAND. My judgment is, if I may rely at all upon the Department of Agriculture, that there are natural causes responsible for the failure of the flax crop and the profitable raising of flax and that we can do nothing by legislation to improve the situation.

Mr. BARBOUR. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from New Jersey?

Mr. VANDENBERG. I yield.

Mr. BARBOUR. I should like to ask the Senator from North Dakota or some other Senator who can answer the question definitely and specifically, either in my time or in his, whether the term "flax", which has constantly been employed by different Senators, refers to flaxseed only or to fiber flax? These two commodities are absolutely different and distinct. I wish to be clear in my own mind whether or not this reference or any reference is to fiber flax or just to flaxseed. And I want to be sure that other Senators understand this also, particularly those responsible for this phase of this legislation.

Mr. SHIPSTEAD. If I may answer the Senator in his time, having no more time on this amendment—

Mr. VANDENBERG. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. Flax is a different thing from flaxseed.

Mr. BARBOUR. I know that very well. That is the very point I want to make clear.

Mr. SHIPSTEAD. This amendment refers only to flaxseed; it does not refer to flax as such.

Mr. BARBOUR. Simply to flaxseed?

Mr. SHIPSTEAD. Simply to flaxseed.

Mr. BARBOUR. I thank the Senator.

Mr. VANDENBERG. I yield the floor.

Mr. KING. Mr. President, I suggested to the Senator from Nebraska [Mr. NORRIS] a moment ago, when he interrogated the Senator from North Dakota as to the reason why there should be any opposition to the amendment offered by the Senator from California, that it was desired to have a monopoly. It appears that two or three States have practically a monopoly of the production of flaxseed, and now, having obtained a high tariff, 65 cents a bushel, and having limited production in the United States, they want to deny to other persons the right to invade the flaxseed field and to produce flaxseed and to obtain a little of the benefits and bounties which will result from this proposed act and which accrue from the tariff. It seems to me if we are to give bounties and subsidies and that sort of thing, that the amendment offered by the Senator from California is one which is entitled to the support of the Senate as against the position of the Senator from North Dakota.

Mr. President, I recall, as a member of the Finance Committee, the appeals which were made for a tariff upon flaxseed. We granted a tariff of 65 cents a bushel, and the price of flaxseed has risen, as I recollect—I may be in error as to the figures, because I have not examined them for several years—from 20 cents a bushel up to 65 or 70 cents a bushel.

Mr. COPELAND. The price has risen to \$1.20 a bushel.

Mr. KING. The price has risen to \$1.20 a bushel, I am told; I was somewhat in error. Who is compelled to pay for this enormous increase in the price of flaxseed? The farmers themselves have to pay it in the increased cost of paint and other commodities which they use and which are indispensable and necessary to their activities. The linoleum in their houses is, in part, the product of flaxseed, and there are hundreds of other commodities entering into the lives of the people, farmers as well as the industrialists in the cities, which are affected by the price of flaxseed. From flaxseed are produced oils which are needed in the handling of leather and in preparing it for utilization in the manufacture of shoes and leather goods. It seems to me that this is an example of greed which is not justified.

A tariff of 65 cents a bushel has been levied on flaxseed; there has been an increase in the price perhaps of several hundred percent as the result of the tariff, and now there comes a demand for additional protection in order to prevent others from invading the field.

I shall vote for the amendment offered by the Senator from California; and then, if such a motion shall be made, I will vote to strike out the entire provision. I think it is wholly unjustified.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from California [Mr. JOHNSON] to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The question recurs on the amendment offered by the Senator from Minnesota [Mr.

SHIPSTEAD] to the amendment of the committee. The amendment to the amendment will be stated.

The CHIEF CLERK. At the end of the committee amendment, on page 38, line 13, after the word "barley", it is proposed to insert the following:

In the case of flaxseed the first marketing year shall be considered to be the period commencing October 1, 1935, and ending April 30, 1936. Subsequent marketing years shall commence on May 1 and end on April 30 of the succeeding year.

There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to flaxseed) (a) a processing tax on the first domestic processing of perilla seed at the rate equal to the per pound rate of the processing tax which is then in effect on flaxseed, and (b) a processing tax on the first domestic processing of hempseed at the rate of 84 percent of the per pound rate of the processing tax which is then in effect on flaxseed.

Mr. COPELAND. Mr. President, is this the amendment of the Senator from Minnesota?

The PRESIDENT pro tempore. It is the amendment of the Senator from Minnesota.

Mr. COPELAND. It sets aside, I presume, the theory of the original act. If I remember the original Agricultural Adjustment Act correctly, a compensatory tax must be levied on products competing with basic commodities. Is that what the Senator has in mind?

Mr. SHIPSTEAD. There was so much noise in the Senate, I did not hear what the Senator said.

The PRESIDENT pro tempore. Let there be order in the Senate so that one Senator may hear another.

Mr. SHIPSTEAD. Will the Senator please restate his query?

Mr. COPELAND. May I first ask the Senator, in my time, as he has exhausted his, what is he proposing by this amendment—a compensatory tax on the products competing with a basic commodity?

Mr. SHIPSTEAD. Yes.

Mr. COPELAND. Is not that the law now? That is the law under the present act, as I understand.

Mr. McNARY. Mr. President, if I may obtrude at this point, let me say that in the original act a compensatory tax was placed on competing articles. At that time no specification was provided as to the amount of the processing tax, but it was based on a given period between 1907 and 1914, known as the "basic period."

In order to overcome the decision in the so-called "chicken case", it is attempted here to have Congress specify the amount of tax on flax; and consequently, to carry out that same parity theory, it is necessary to put a processing tax on the competitive products which are named in the amendment. That is the theory, as I gather it from reading the amendment and having a little knowledge of the original act.

I do not think it changes the theory or the principle at all, in carrying out the purposes of the amendment, in order to get around some of the constitutional objections found to the National Recovery Act, by specifying that Congress shall fix the amount of the tax rather than leaving it to the discretion of the Secretary of Agriculture. If we provide a yardstick for the domestic production of flax, we must provide a yardstick for the competitive agricultural commodity.

Mr. COPELAND. I know the explanation is correct. But what we are doing is still further to increase the cost of paint in this country, to say nothing of the cost of linoleum and other products. I am assured that if this provision without any amendment were to be adopted the cost of paint would be increased at least 35 cents a gallon. If the other drying oils—tung oil, perilla oil, and other oils—are also given the alleged benefit of further taxes, it would mean that every gallon and every quart of paint spread in America would be materially increased in price.

The question is whether we are willing to have that result, involving everybody, when the total acreage of flax in the country is less than a million acres. With a view to helping the owner of a million acres devoted to flax, we are asked to do a thing which would increase the cost of paints, linoleum, and other products containing these various oils.

Senators must decide. It is not difficult for me to decide, when I know there will be a material decline in the making

and sale of paints and increased unemployment by reason thereof.

I suppose Senators from interior States get tired of hearing me talk about unemployment in New York City and in the other cities of my State, but everything we are doing here has a tendency to increase unemployment in my community. We have in New York City the largest group of unemployed in America—2,000,000 in number. A lot of the people now employed in paint factories will be unemployed by reason of this tax, because with the increased cost of paint there will be a decline in demand for it. If any Member of the Senate has had occasion to buy paint, as I have during the past several years, and to note the distinction and difference in the price of paint now and what it was 5 years ago, he knows what added cost means.

This provision must result in a decreased use of paint. Yet in order to help 1,000,000 acres of flax out of the many millions of acres devoted to farm products in the country, we are asked to do a thing which would materially increase the cost of paint and which would affect farmers who have buildings upon their farms which I assume they desire to keep painted.

Here with one hand we are writing a bill to increase taxes upon these various products, and with the other hand, and at the same time, we are making the prices of articles made from them still higher. I think there must come a time when we will stop that sort of thing. Certainly so far as this particular program is concerned, if I am correct in my logic and in the information given me, we are making a great mistake in increasing the cost of essential products and thereby making for more unemployment.

Mr. SHIPSTEAD. Mr. President, did the Senator vote for the N. R. A. Act?

Mr. COPELAND. I think I did.

Mr. SHIPSTEAD. The N. R. A. increased the costs which he is mentioning.

Mr. COPELAND. I know it; and if I had it to do over again, I should not vote for the N. R. A. There are a lot of such things I am not going to vote for now. I do not care if I am the only Democrat, though I know I am not the only one, I am not going to vote for these various measures which in my judgment are doing much to retard progress in America and which are seeking to set aside all those economic laws which are essential to our well-being as a Nation. We cannot make people good by legislation. Neither can we make them prosperous by legislation.

This is my apology as regards my vote 2 years ago on N. R. A. There are a lot of things I know now that I did not know then, and every citizen in America who is a student of affairs has learned a lot now that he did not know then.

We hoped, through these various legislative acts and by the social program set up by them, that we might improve the welfare of America. We tried to prime the pump; we tried to lift ourselves by our bootstraps; but we failed to do those things. If we continue along paths which have been proven by our experience in the past 2 years to be mistaken paths, we are not using the common sense which God gave us and which in my judgment we should exercise.

Mr. SHIPSTEAD. Mr. President, the Senator has made the most excellent argument against protective tariffs and an excellent argument against the N. R. A.

The PRESIDENT pro tempore. Permit the Chair to remind the Senator from Minnesota that he has made one speech on the amendment.

Mr. SHIPSTEAD. No; I have not taken any time on the amendment.

The PRESIDENT pro tempore. The amendment of the Senator from Minnesota is pending and he has made one speech on the amendment.

Mr. SHIPSTEAD. I thought I spoke on the amendment of the Senator from California [Mr. JOHNSON].

Mr. McNARY. Mr. President, I think when the Senator from Minnesota had the floor he was speaking on the amendment of the Senator from California. I recall very clearly the Senator from California offered his amendment, and the Senator from Minnesota had his amendment read

at the desk, but it was not pending. The rule, therefore, does not apply to him because he was speaking on an entirely different amendment than his own. I submit that statement because I was present and know what occurred.

The PRESIDENT pro tempore. There was some misunderstanding about the amendments being considered together. If the Senator from Minnesota thinks he has not discussed his amendment, the Chair will so hold.

Mr. SHIPSTEAD. Have I some time?

The PRESIDENT pro tempore. The Senator has 15 minutes.

Mr. SHIPSTEAD. I shall take but 2 minutes. I repeat that the Senator from New York [Mr. COPELAND] has made an excellent argument against protective tariffs and an excellent argument against the N. R. A. I am not here to argue this matter, however.

This is the policy which is being formulated. In anticipation that that policy will be formulated in its completeness this amendment of mine is offered. Any man who does not believe in this policy has a right to vote against the final passage of the bill, but in fairness the formulation of the policy should be completed. This is only a part of the picture, a part of the policy, that the commodity, flaxseed, shall be included in order that the farmer may have for his flaxseed a parity price of \$2.25 instead of \$1.52 as at present.

Mr. BORAH. Mr. President, the remarks of the Senator from New York [Mr. COPELAND] are worthy of serious consideration. I think the constant increase of prices in this country is one of the things which is retarding recovery and enlarging the number of unemployed. In my judgment, about that there can be no doubt. But I think we ought to make sure that we have located the cause of the increase of prices in this country.

The increase of prices by reason of the increase of farm-product prices is almost infinitesimal by the time it reaches the ultimate consumer. The increase of the price of farm products has had comparatively little effect upon the price the Senator from New York and his constituents have to pay in New York City for agricultural commodities. These prices have been increased by reason of combinations in this country which are fixing prices for the American people.

Yesterday a long debate ensued on the question of the Government fixing prices, in which I do not believe. But I do know that prices are being fixed for a population of 120,000,000 by a comparatively small number of people in the United States. If that is to continue as a permanent policy, then it is better that prices be fixed by the Government. The prices of paints and of meats and of overalls and of practically everything the people must buy are not being fixed by reason of the increase of the price upon the farm, except in a comparatively very small degree, but by those who are in a position to sit around a table and fix the price for the American people. And the Government continues to connive at the great wrong.

Unless we are willing to deal with that question, unless we are willing to handle that proposition, we are not going to lower the price of products in this country; and unless we lower them, unless we prevent the artificial, arbitrary price fixed by arbitrary power, unemployment in this country is going to increase and additional hardship is going to be imposed on the American people. One of the great contributing causes of the depression was this power of a few to extort arbitrary prices from the great body of the people. So long as that power continues and that practice prevails there will be wide-spread poverty and constantly increasing unemployment. There is our problem, and not in the price of farm products.

Mr. KING. Mr. President, apropos of the observations made by the Senator from New York [Mr. COPELAND], I desire to read from a letter I have just received from Judge J. A. Howell, one of the distinguished citizens of my State.

It appears that a number of years ago a packing plant was established in the city of Ogden for the purpose of handling the meat products of Idaho, Utah, and the intermountain region. It was known as the American Packing & Provi-

sion Co. This plant continued its operations for several years but ultimately ceased its activities—largely due to the depression, as many other organizations did during the period referred to.

The corporation was reorganized by a number of the leading citizens of Ogden, among them Judge Howell. They were desirous of establishing and carrying on a modern packing plant, believing that it would prove of benefit to the State and furnish a market for the livestock industry of Utah and other Western States.

Judge Howell in his letter states:

It looked as if this venture would be one that would pay a reasonable return upon our money, and up until the time of the depression it did have fairly good prospects. Of course it suffered, as did all other business, during the depression; and then along came the floor tax and later the hog-processing tax under the Agricultural Adjustment Act, and it is the particular purpose of this letter to state to you what is the effect of that tax upon such a business as this. As I understand it, the purpose of the tax was to secure sufficient funds with which to compensate producers for the limiting of the production, with the ultimate purpose of raising the price of hogs to the producer. It is not the purpose of this letter to argue the economics of such a law, but rather to state the practical results. It was assumed, of course, that this processing tax could be passed along by the producer to the consumer, but this has absolutely not been the result, by reason of the fact that the additional processing tax has caused the price of pork, hams, and other hog products so to increase that the consuming public refuses to purchase them at the price, and the consequence has been that gradually the volume of business of our company has diminished to such an extent that each month the business is running behind at a rate which means that only a limited time can elapse until this business must necessarily close its doors. It may be that ultimately the big packers, even under this law, will be able to survive, but if the experience of the other small packers is similar to ours, and I know of no reason why it should not be, the final result will be to drive all small packers out of the business entirely, and the result right here locally will be, as I have already stated, to close this plant and throw 250 Ogden citizens out of employment, as this tax burden averages between \$15,000 and \$20,000 a month on this little business.

Now, notwithstanding there are many of us who believe that this sort of a so-called "tax" is but a method of transferring one person's property to another and for other reasons is unconstitutional, it is now proposed by H. R. 8492 to prevent the recovery back of the tax by those who have suffered it, even if it should be declared to be unconstitutional.

Mr. President, in my opinion, some of the legislation which has been enacted during the past few years for the purpose of improving economic and industrial conditions has failed in its purpose. In periods of economic maladjustment, or depression, demands are not infrequently made to enact laws and carry out policies at variance with sound political and economic policies, but justified upon the theory that departures from accepted standards will secure benefits to groups and sections of the population. It is needless to state that grievous disappointments have followed these unsound experiments. Many of the measures which have been urged and adopted to meet periods of depression were enactments and regulations limiting and controlling production, fixing prices, and surrounding producers and distributors, and, indeed, consumers, with drastic and oppressive restrictions.

Under the Agriculture Adjustment Act crops were destroyed, lands condemned to remain fallow, and regulations promulgated and enforced which interfered with the exercise of legitimate rights of individuals and materially retarded economic and industrial rehabilitation.

It is singular that the many lessons of history which emphasized the un wisdom of measures and policies such as I have indicated, should be so unimpressive upon the minds of the people. With hundreds of millions of people denied the necessities of life, and millions in our own country without employment, without adequate food and clothing and shelter, we have put into effect policies that made it more difficult to defeat the forces of depression, revive business, and restore prosperity to the people.

The Senator from Minnesota [Mr. SHIPSTEAD] is now urging that important products be brought under the provisions of the Agricultural Adjustment Act and subjected to the oppressive and restrictive regulations that have proven, in my opinion, so disadvantageous in respect to other commodities. He insists that perilla oil, tung oil, as well as other oils,

shall be subjected to the terms of the A. A. Act, as amended. He concedes, as all familiar with these oils will concede, that they are important in promoting and developing industries in our country. It is conceded that the inclusion of these products as well as others mentioned in the bill before us, will increase the prices of these commodities which must be borne by the consumers. It is conceded that the purpose of this bill and the purpose of the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] is to add to the costs of many commodities and to that extent increase the burdens which the people will have to bear.

Already there are complaints heard in various parts of our country against rising prices and particularly against the cost, by many, of the necessities of life. Doubtless it is true that the prices of some commodities are controlled, in part at least, by what might be denominated monopolies or combinations in restraint of trade. In such cases the antitrust laws should be invoked and rigorously applied. Monopoly is hateful, and the monopolistic control of things indispensable to the welfare of the people cannot and should not be permitted. The antitrust laws are broad and comprehensive, and violations should bring punishment to offenders.

Mr. President, there is a fallacy indulged in by many that legislation can cure all of the ills to which humanity is subject. Demands are being made for more laws, more restrictive legislation, the application of policies which experience has demonstrated to be unwise; and it is hoped, if not believed, that important benefits will result therefrom. I think it is recognized that some of these demands do not rest upon the theory of equal and exact justice to all, but rather contemplate that benefits, bounties, and advantages to one group or class shall be paid for by other groups or classes.

Undoubtedly there are economic and political tendencies toward the centralization of authority in the Federal Government, thus weakening the States and interfering with the legitimate exercise of individual rights. In my opinion, if the interpretation placed upon the commerce clause of the Constitution by many is accepted as a guide for congressional and national policies, then the rights of individuals as well as the States will be impaired and the spirit, if not the letter, of the Constitution will be changed. I have said upon a number of occasions that there are movements on foot to increase the authority of the Federal Government far beyond the limits of the Constitution as it came from the fathers and as it was interpreted by them. Under this misinterpretation of the commerce clause substantially all transactions and activities would fall into the category of interstate, and the Federal Government would have the power to control the lives and conduct and activities of the people.

I confess to entertaining serious misgivings as to the future of our form of government if the currents of socialism and paternalism, which are so rampant today, shall continue unabated.

Attempts are being made to overload the Federal Government, to increase its power, and to give to it authority to assume responsibilities belonging to individuals, communities, and States. In the end, if such attempts are successful, the States will be but shadows and the machinery of the Federal Government dominant in every phase and branch of our political, economic, and industrial life.

Senators are familiar with the statement of John Fiske, who said:

If the day should ever arrive (which God forbid) when the people of the different parts of our country shall allow their local affairs to be administered by prefects sent from Washington, and when the self-government of the States shall have been so far lost as that of the departments of France, or even so closely limited as that of the counties of England—on that day the political career of the American people will have been robbed of its most interesting and valuable features, and the usefulness of this Nation will be lamentably impaired.

He adds:

Too much centralization is our danger today, as the weakness of the Federal tie was our danger a century ago.

Mr. President, an important decision was rendered yesterday by the Circuit Court of Appeals of the First Circuit, in the case of William M. Butler et al. against United States of America. It relates to the A. A. Act and holds that

certain of its provisions are unconstitutional. In the light of this decision, as well as other decisions by Federal courts, Congress should hesitate to give its approval to the pending measure because the infirmities of the A. A. Act are found in the pending bill. Indeed, it is believed by some that the measure before us has greater infirmities than the original act.

I desire to read a few excerpts from the opinion:

The power of Congress to regulate interstate commerce does not authorize it to do so by taking products, either of agriculture or industry, before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

It is clear, we think, that under the recent decision of the Supreme Court in the Schechter Poultry Corporation case decided on May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz, to control or regulate the production of agricultural products in the several States by the methods adopted in this act, is beyond the power of Congress.

The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose deemed by Congress in furtherance of the "general welfare" but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.

The Federal Government is a government of enumerated powers and Congress cannot delegate legislative powers to the executive department.

I may add, in passing, that that is sought to be done in the bill which is under consideration.

While the courts have always shown a desire to sustain, if possible, acts of Congress, they have recognized the limitations imposed on Congress in this respect under the Constitution.

The power to determine what the law shall be, what property shall be affected by taxation or regulations, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

The power to impose a tax and to determine what property shall bear the tax can only be determined by the legislative department of the Government.

The Secretary made no finding of facts as to why he selected the first list of basic commodities for reducing acreage or production and was not required to do so.

It cannot be said that the Secretary's judgment that his acts will tend to effectuate the general policy laid down by Congress can be called a finding, as his judgment merely involves his opinion as to the general effect of the agreements he executes, to equalize the purchasing power of the commodity in question with that of the 5-year pre-war period.

I may add in passing that greater discretion and latitude are permitted to the Secretary and to his assistants under the present bill than under the other act, and therefore this measure will be challenged with greater hope of success than the original A. A. Act itself.

If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress, or to foretell the future limitations of local self-government.

I ask permission to have the entire opinion of the circuit court of appeals inserted in the RECORD.

The PRESIDING OFFICER (Mr. POPE in the chair). Without objection, the opinion will be inserted in the RECORD.

The opinion is as follows:

[From the New York Times of July 17, 1935]

Following is the text of the Federal circuit court of appeals decision holding the A. A. A. processing and floor taxes illegal: *William M. Butler et al., receivers of Hoosac Mills Corporation, appellants, v. United States of America, claimant, appellee.* Appeal from the District Court of the United States for the District of Massachusetts. Before Bingham, Wilson, and Morris, JJ.

OPINION OF THE COURT

JULY 13, 1935.

Wilson, J.:

This is an appeal from a decree of the District Court of Massachusetts in the conduct of receivership proceedings against the Hoosac Mills Corporation, a Massachusetts corporation. The United States filed a claim with the receivers for processing and

floor taxes levied under sections 9 and 16 of the Agricultural Adjustment Act, chapter 25 (48 Stat. 31) (hereinafter referred to as the act), amounting in the aggregate to \$81,694.28, of which \$44,057.64 represented processing taxes and interest, and \$37,636.64 represented floor taxes and interest.

The receivers in their report to the district court recommended that the claims for these taxes be disallowed. The district court, however, found that the claims were valid and entered a decree ordering the claims to be paid.

COMPLAINTS OF ERROR PUT IN THREE GROUPS

The receivers appealed from the decree and filed numerous assignments of error, which may be grouped under three heads:

(1) The taxes imposed are not warranted under the Federal Constitution in that they were imposed for the unlawful purpose of regulating and restricting the production of cotton in the several States, which is an unwarranted interference with matters solely within the control of the respective States and is violative of the powers reserved to the States under the tenth amendment, and, therefore, does not constitute an exercise of any authority or power of taxation granted to Congress under section 8 of the Constitution.

(2) The delegation of the powers under sections 8 and 9 of the act to the Secretary of Agriculture to determine by agreement with the producers which of the basic commodities enumerated under section 11 of the act as amended shall be restricted as to production, to what extent the acreage devoted to the production of any of such basic commodities shall be limited to bring about the result sought to be gained by the act, to determine when rental or benefit payments shall be made and the amount, and the investing of power in the Secretary to determine when and what competing commodities should be taxed and to what extent, and to determine when such processing tax shall become effective or shall cease to be imposed, is an unwarranted delegation of the legislative power granted exclusively to Congress.

(3) That the processing and floor taxes imposed are direct taxes and are not apportioned as required under section 8 of the Constitution, or, if excise taxes, are not uniform throughout the United States and are therefore not authorized under the Constitution.

RULING INTERPRETS AIMS OF CONGRESS

We are not unmindful of the rules of construction that a presumption exists as to the validity of an act of Congress, or that if an act is susceptible of two interpretations that should be accepted which will uphold its validity.

It is clearly apparent, however, from the provisions of the act that the main purpose of Congress in its enactment was not to raise revenue but to control and regulate the production of what is termed the "basic products of agriculture", in order to establish and maintain a balance between the production and consumption of such commodities, which Congress realized could not in any event be accomplished by compulsory regulation of the production of agricultural products, and it sought to avoid the objection that it was interfering with matters solely within the control of the States themselves by making the restriction of production voluntary by basing the act on the power of Congress to regulate interstate commerce, on its power to tax to provide for the general welfare of the United States, and by declaring that in the acute economic emergency that exists transactions in agricultural commodities have become affected with a public interest.

Title I of the act opens with the following:

"Declaration of emergency: That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agricultural and other commodities, which disparity has largely destroyed the purchasing power of the farmers for industrial products, has broken down the orderly exchange of commodities, and has seriously impaired the agricultural assets supporting the national credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected transactions in agricultural commodities with a national public interest, have burdened and obstructed the normal currents of commerce in such commodities, and render imperative the immediate enactment of title I of this act."

NEW CONGRESS POWERS ARE DENIED BY COURT

According to recent pronouncements of the Supreme Court, however, such a declaration grants no new powers to Congress, nor does a declaration by Congress that under certain conditions the industry of agriculture is affected with a public interest, or burdens and obstructs the normal flow of commerce, necessarily give to Congress the absolute power to control or regulate it by legislation.

The assignments of error are based on the provisions of the following sections:

"Sec. 2. It is hereby declared to be the policy of Congress—

"(1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power, with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco shall be the pre-war period August 1909-July 1914.

"In the case of tobacco, the base period shall be the post-war period August 1919-July 1929.

"(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demands in domestic and foreign markets.

"(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909-July 1914."

"Sec. 8. In order to effectuate the declared policy the Secretary of Agriculture shall have power—

"(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments.

"Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored.

"In any such case such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing, but no deduction may be made for interest."

PROVISIONS OF ACT FOR COLLECTIONS QUOTED

"SEC. 9 (A). To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation.

"The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (B). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements.

"The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that rental or benefit payments are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided*, That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

RATE OF THE TAX AS PROVIDED BY ACT

"(B) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity; except that if the Secretary has reason to believe that the tax at such rate will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties.

"If thereupon the Secretary finds that such result will occur, then the processing tax shall be at such rate as will prevent such accumulations of surplus stocks and depression of the farm prices of the commodity. In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

"(C) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture."

REGULATIONS GET STATUS AND EFFECT OF LAW

"SEC. 10. (c) The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article processed therefrom, to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of \$100, as may be provided therein."

As originally enacted, section 11 read as follows:

"SEC. 11. As used in this title, the term 'basic agricultural commodity' means wheat, cotton, field corn, hogs, rice, tobacco, and milk and its products, and any regional or market classification,

type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this title, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this title cannot be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof.

"SEC. 12. (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000, to be available to the Secretary of Agriculture for administrative expenses under this title and for rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title. Such sum shall remain available until expended.

ACT FIXES THE USES OF SUCH TAX INCOME

"(b) In addition to the foregoing, the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for expansion or markets and removal of surplus agricultural products, and the following purposes under part 2 of this title: Administrative expenses, rental and benefit payments, and refunds on taxes.

"The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated.

"The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection."

"SEC. 15 (a). If the Secretary of Agriculture finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, compared with the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, and the Secretary of the Treasury shall abate or refund any processing tax assessed or paid after the date of such certification with respect to such amount of the commodity as is used in the manufacture of such products."

LAW MAKES PROVISION FOR FIXING OF RATES

"(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof.

"If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary upon the basic agricultural commodity.

"SEC. 16. (a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

"(1) Whenever the processing tax first takes effect there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date.

"(2) Whenever the processing tax is wholly terminated there shall be refunded to such person a sum (or if it has not been paid, the tax shall be abated) in any amount equivalent to the processing tax with respect to the commodity from which processed."

POWER OF CONGRESS OVER PRODUCTION OF AGRICULTURAL COMMODITIES

It is clear from the above sections, together with the other sections of the act, that its main purpose is to control and regulate the production of the so-called "basic agricultural commodities" in the several States, through agreements with the producers and in consideration of what is termed "rental" or "benefit" payments, to reduce acreage or production for market sufficient to increase the current average price of such products to that elusive point where the returns to the farmer from the production of such commodities will purchase under present conditions the same amount of industrial products that the returns to the farmer from the same products would buy in the 5-year pre-war period from July 1909 to August 1914.

PURPOSE OF THE TAXES DECLARED OBVIOUS

The "processing" and "floor taxes", though ostensibly imposed for raising funds to meet extraordinary expenses incurred by reason of the national economic emergency, are obviously intended to provide funds for the rental and benefit payments authorized under section 8, as such taxes are not imposed except when the Secretary determines that rental or benefit payments are to be made, and the proceeds are expressly appropriated for the purpose.

It is urged by the receivers, and in a brief filed by one of the amici curiae, that the restriction of the production of agricultural products is entirely within the control of the several States, and Congress cannot control it directly or indirectly through the executive department, however great the emergency; that even if in a great emergency transactions in agricultural products become affected with a public interest, which is not met by concerted action by the States themselves, it does not lie within the power of Congress to regulate their production; that however wide-spread the public interest in a matter solely within the control of the States themselves, Congress has no power to control or regulate it, it being reserved to the States under the tenth amendment.

The power of Congress to regulate interstate commerce does not authorize it to do so by taking products either of agriculture or industry before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

There is, of course, nothing new in this statement; see *Hammer v. Dagenhart* (247 U. S. 251); *Child Labor Tax Case* (259 U. S. 20); *Chassaniol v. City of Greenwood* (291 U. S. 584); *Kidd v. Pearson* (128 U. S. 1); *Keller v. United States* (213 U. S. 138, 145); *New York v. Miln* (11 Pet. 102, 139); *United Leather Workers International Union et al. v. Herkert* (265 U. S. 457); *United Mine Workers et al. v. Coronado Co.* (259 U. S. 344, 408); *Crescent Cotton Oil Co. v. Mississippi* (257 U. S. 129); *Champlin Refining Co. v. Corporation Commission of Oklahoma* (286 U. S. 210, 235); *United States v. Eason Oil Co.* (8 Fed. Sup. 365); *United States v. Weirton Steel Co.* (10 Fed. Sup. 55).

ESSENTIAL THAT STATES RULE LOCAL MATTERS

In *Hammer v. Dagenhart*, supra, page 275, the Court said:

"A statute must be judged by its natural and reasonable effect (*Collins v. New Hampshire* (171 U. S. 30, 33, 34)). The control by Congress over interstate commerce cannot authorize the exercise of authority not entrusted to it by the Constitution (*Pipe Line cases* (234 U. S. 548, 560)). The maintenance of the authority of the States over matters purely local is as essential to the preservation of our institutions as is the conservation of the supremacy of the Federal powers in all matters entrusted to the Nation by the Federal Constitution.

"In interpreting the Constitution it must never be forgotten that the Nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the National Government are reserved (*Lane County v. Oregon* (7 Wall. 71, 76)). The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority is inherent and has never been surrendered to the General Government (*New York v. Miln* (11 Pet. 102, 139); *Slaughter House cases* (16 Wall. 36, 63); *Kidd v. Pearson*, supra).

"To sustain this statute would not be, in our judgment, a recognition of the lawful exertion of congressional authority over interstate commerce but would sanction an invasion by the Federal power of the control of a matter purely local in its character, and over which no authority has been delegated to Congress in conferring the power to regulate commerce among the States.

"We have neither authority nor disposition to question the motives of Congress in enacting this legislation. The purposes intended must be attained consistently within constitutional limitations and not by an invasion of the powers of the States. This court has no more important function than that which devolves upon it the obligation to preserve inviolate the constitutional limitations upon the exercise of authority, Federal and State, to the end that each may continue to discharge harmoniously with the other the duties entrusted to it by the Constitution."

POINTS TO DECISION IN SCHECHTER CASE

The Government contends that Congress does not seek by the act to interfere with the States' control over agriculture, inasmuch as the reduction of acreage and of production of either of the basic agricultural products depends on voluntary agreements by the producers and the processing and floor taxes depend on the execution of such agreements to reduce production, citing *Massachusetts v. Mellon* (262 U. S. 447); but it is clear, we think, that under the recent decision of the Supreme Court in the *Schechter Poultry Corporation* case, decided on May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz, to control or regulate the production of agricultural products in the several States by the methods adopted in this act is beyond the power of Congress (*Kansas v. Colorado*, 206 U. S. 46; *Flint v. Stone Tracy Co.*, 220 U. S. 107).

The processing and floor taxes are not dependent on the execution of agreements to reduce acreage or production alone, but on the determination by the Secretary, without any foundation other than his own opinion, that the existing economic emergency demands that to accomplish the declared purpose of the act rental or benefit payments shall be made. The imposing of the taxes automatically follows.

The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose

deemed by Congress in furtherance of the general welfare, but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.

DELEGATION OF LEGISLATIVE POWERS

The issue of whether under the act there has been an unauthorized delegation by Congress of its legislative powers is decisive of the case before this court.

Except as a premise for the conclusions which follow, it is unnecessary to restate what has been so often reiterated by the courts, viz, that the Federal Government is a Government of enumerated powers, and Congress cannot delegate legislative powers to the executive department.

The line between grants of legislative powers and the authority to perform a purely administrative function as drawn in the decisions may at first blush appear wavy instead of straight, notwithstanding the rule has been often definitely stated.

The Supreme Court of Ohio in *Cincinnati, Wilmington, etc., R. R. v. Commissioners* (1 Ohio St. 77, 88), stated the rule in a form which has been approved by the Supreme Court of the United States (*Field v. Clark* (143 U. S. 649)), and again in the recent case of *Panama Refining Co. et al. v. Ryan et al.* (293 U. S. 388, 426):

"The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made."

The Supreme Court in the *Panama Refining Co.* case, supra, also said:

"The Congress manifestly is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. Undoubtedly legislation must often be adapted to complex conditions involving a host of details with which the National Legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicability which will enable it to perform its function in laying down policies and establishing standards while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the Legislature is to apply. Without capacity to give authorizations of that sort, we should have the anomaly of a legislative power which in many circumstances calling for its exertion would be a futility."

PREVIOUS COURT RULINGS ARE QUOTED IN DECISION

The Court, however, added:

"But the constant recognition of the necessity and validity of such provisions, and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate if our constitutional system is to be maintained."

And in the case of *Wichita R. R. & Light Co. v. Public Utilities Commission* (260 U. S. 48, 59) the Court said:

"In creating such an administrative agency, the legislature, to prevent its being a pure delegation of legislative power, must enjoin upon it a certain course of procedure and certain rules of decision in the performance of its function."

It is the application of this principle to complex situations that sometimes makes it difficult to determine whether there has been a grant of legislative power to an administrative officer or merely administrative functions.

While the courts have always shown a desire to sustain, if possible, acts of Congress, they have recognized the limitations imposed on Congress in this respect under the Constitution.

In the leading case of *Field v. Clark*, supra, page 692, the court said that the rule "that Congress cannot delegate legislative powers to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution."

Under stress of circumstances we sometimes forget the reason for the division of our Government into three independent branches, which was expressed in the Constitution of Massachusetts by one of those instrumental in securing the adoption of the Federal Constitution:

"In the government of this Commonwealth, the executive department shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them, to the end it may be a government of laws and not of men."

PAST COURT ACTIONS ON DELEGATION OF POWER

The extent to which the court has gone in upholding the acts of Congress upon the ground that Congress may select instrumentalities for the purpose of ascertaining the existence of facts upon which the operation of the law depends, and may properly give authority to administrative officers to determine certain facts, and by establishing primary standards devolve on others the duty to carry out the declared legislative policy in accordance therewith is shown in the following cases:

The Brig "Aurora" (7 Cr. 382); *Field v. Clark*, supra; *Buttfield v. Stranahan* (192 U. S. 470); *Union Bridge Co. v. United States* (204 U. S. 364); *United States v. Chemical Foundation* (272 U. S. 1); *Radio Commission v. Nelson Brothers Co.* (289 U. S. 266); *United States v. Grimaud* (220 U. S. 506); *Hampton & Co. v. United States* (276 U. S. 394); *Plymouth Coal Co. v. Pennsylvania* (232 U. S. 531); *United States v. Shreveport Grain & Elevator Co.* (287 U. S. 77); *Avent v. United States* (266 U. S. 127); *Williamsport Wire Rope Co. v. United States* (277 U. S. 551); *St. Louis & Iron Mountain Southern Railway Co. v. Taylor* (210 U. S. 281, 287).

But an examination of these decisions and others of the Supreme Court will also disclose that when an act of Congress of this nature has been sustained, either there has been clear direction to perform an administrative function or to add a tax of the same character to one already imposed by Congress—*Milliken v. United States* (283 U. S. 15, 24); *Patton v. Brady* (184 U. S. 608); or to grant relief from an excessive tax already imposed—*Williamsport Wire Rope Co. v. United States* (277 U. S. 551); *Heiner v. Diamond Alkali Co.* (283 U. S. 502); or a power to determine, after notice and hearing, certain facts upon which the operation of congressional edicts are made to depend, particularly when the determination of the facts are dependent on data not within the knowledge of Congress, or not readily accessible, and the ultimate facts on which the will of Congress depends can only be determined from evidentiary facts to be proved by evidence, which cannot be fairly weighed except by permanent and specially qualified officials, such as the Interstate Commerce Commission, the Commissioner of Internal Revenue, the Board of Tax Appeals, the Radio Commission, or the Tariff Commission, and from the findings of which commission judicial review is provided for—*Interstate Commerce Commission v. Louisville & Nashville Railroad Co.* (227 U. S. 88).

LAW-FIXING POWERS NOT ADMINISTRATIVE

The power to determine what the law shall be, what property shall be affected by taxation or regulation, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

The power to impose a tax and to determine what property shall bear the tax can only be determined by the legislative department of the Government. If Congress undertakes to lay down a guide for an administrative officer to follow in carrying out its mandates, it must be by an intelligible and reasonably definite standard (*Adkins v. Children's Hospital*, 261 U. S. 525; *Hampton & Co. v. United States*, *supra*, p. 409).

The balance between production and consumption of certain commodities, or the equalizing of the purchasing power thereof between certain widely separated periods, alone forms no such standard.

Congress in the National Recovery Act authorized the President to prohibit the transmission of oil in interstate commerce in excess of the amount authorized by a State, which on its face might seem definite, but the Court said in the *Panama Refining Co.* case, *supra*, page 415:

"The question whether that transportation shall be prohibited by law is obviously one of legislative policy. Accordingly we look to the statute to see whether the Congress has declared a policy with respect to that subject; whether the Congress has set up a standard for the President's action; whether the Congress has required any finding by the President in the exercise of the authority to enact the prohibition. * * *

"Section 9 (c) does not state whether, or in what circumstances or under what conditions, the President is to prohibit the transportation of the amount of petroleum or petroleum products produced in excess of the State's permission. It establishes no criterion to govern the President's course. It does not require any finding by the President as a condition of his action."

RULING ON THE N. R. A. ALSO IS RECALLED

The Court found no standard in the act by which the President's action was to be governed except a general declaration in section 1 of a policy even broader than that contained in section 2 of this act. The Court said of section 1 of the Recovery Act, page 417:

"This general outline of policy contains nothing as to the circumstances or conditions in which transportation of petroleum or petroleum products should be prohibited—nothing as to the policy of prohibiting or not prohibiting the transportation or production exceeding that the States allow. * * * It is manifest that this broad outline is simply an introduction of the act, leaving the legislative policy as to particular subjects to be declared and defined, if at all, by the subsequent sections."

If Congress has the power to control or regulate the production of agricultural products within the several States and assess a tax on their processing or sale for that purpose, it is obviously legislative in character. Quercy, then, has Congress set up any definite standard for the Secretary's action in making rental or benefit payments to producers and thereby imposing a processing tax?

We find no definite, intelligible standard set up in the act for determining when the Secretary shall pay rental or benefit payments in order to reduce production of any particular commodity except his own judgment as to what will effectuate the purpose of the act.

The declaration of emergency in the Agricultural Adjustment Act contains no such standard for the Secretary of Agriculture to follow in entering into restrictive agreements with producers of agricultural products. It is merely a statement of conditions which in the judgment of Congress warranted legislative action.

Section 2 of the act declaring the policy of Congress in enacting the legislation contains no more than a statement of the objects Congress had in view in passing the act, viz, "To establish and maintain a balance between the consumption and production of agricultural commodities and such marketing conditions therefor as will reestablish prices to farmers at such a level as will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities during the 5-year pre-war period from July 1909 to August 1914."

We can conceive of no goal that can be more elusive and difficult of attainment.

FINDS BENEFIT GRANTS LEFT TO SECRETARY

Without requiring any findings to warrant his action, Congress has empowered him, in conjunction with the producers, to determine when a reduction of acreage or production of any one of the agricultural commodities which it has termed basic, should be resorted to to accomplish the purpose of the act, when rental or benefit payments are to be made and in what amounts, and thereby to determine through the initiation of the benefit payments or rentals the consequent imposition of a tax.

The making of benefit payments, therefore, rests upon, and the consequent imposition of the tax is vested in the discretion of the Secretary, in conjunction, of course, with the producers, governed by no other consideration than the general purpose of Congress to equalize the purchasing power of certain agricultural products.

The carrying out of the policy stated by Congress in section 2 is no more definite as a standard by which the acts of the Secretary are determined than the policy expressed in the National Recovery Act as to transportation of oil and the power vested in the President to prescribe industrial business codes governing the conduct of business.

PRESENT CASE LIKENED TO RULING ON THE N. R. A.

What the Supreme Court said of section 9 (c) of the National Recovery Act in the *Panama Refining Co.* case may likewise be said of section 2 and section 8 of the Agricultural Adjustment Act. Neither section 2 nor section 8 of this act states whether or under what circumstances the Secretary shall enter into agreements to limit production of basic agricultural commodities.

Action by the Secretary is not mandatory, and the act establishes no criterion to govern his course of action. It requires no finding by him as a condition of his action, nor is any provision for judicial review provided in the act in case of a finding that such standard in fact exists.

It is true that the facts in this case are different from those in the *Panama Refining Co.* case and in the *Schechter poultry* case, but the provisions defining the acts of the Secretary differ from those authorizing the acts of the President in those cases only in the general terms employed. The principle involved is the same.

The indefiniteness of the standard by which the Secretary of Agriculture is to proceed is at once apparent and was recognized by Congress in paragraphs (2) and (3) of section 2, in which it was provided that the approach to such equality of purchasing power must be by a gradual correction of the present inequalities at as rapid a rate as is deemed feasible by the Secretary in view of the current consumptive demand in the domestic and foreign markets, and further by protecting the consumers' interest by readjusting farm production at such a level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities which is returned to the farmer above that returned to him during the 5-year pre-war period.

As originally enacted Congress enumerated in section 11 seven products which it termed basic, and later by amendment added rye, flax, barley, grain, sorghum, sugar beets, sugarcane, peanuts, and rice. Benefit payments under the act have been made with respect to wheat, cotton, tobacco, hogs, field corn, and peanuts, but none with respect to barley, cattle, flax, grain, sorghum, milk, or rye.

Congress has not specifically directed that payments should be made to the producers of any one of them except the producers of sugar, or that the processing of any one of these products should be taxed except rice, but as to each of the other commodities enumerated, has left it to the Secretary of Agriculture to determine by agreements with the producers themselves which ones, if any, should receive benefit or rental payments and in what amounts.

FINDINGS OF FACTS HELD TO BE LACKING

The Secretary made no finding of facts as to why he selected the first list of basic commodities for reducing acreage or production, and was not required to do so. He simply made a proclamation that "rental and/or benefit payments are to be made with respect to cotton", and a processing tax automatically followed.

It cannot be said that the Secretary's judgment that his acts will tend to effectuate the general policy laid down by Congress can be called a finding, as his judgment involves merely his opinion as to the general effect of the agreements he executes to equalize the purchasing power of the commodity in question with that of the 5-year pre-war period.

Only when he undertakes to readjust taxes is he supposed to make findings, but in that case it amounts to no more, as the Court said in the *Schechter Poultry Corporation* case of the President's code-making powers under the National Recovery Act, than his opinion as to its effect in promoting the general policy outlined by Congress in the act itself.

To quote from the opinion in the *Schechter Poultry Corporation* case, decided May 27, 1935:

"But would it be seriously contended that Congress could delegate its legislative authority to trade or industrial associations or groups so as to empower them to enact the laws they deem to be wise and beneficent for the rehabilitation and expansion of their trade or industries? Could trade or industrial associations or groups be constituted legislative bodies for that purpose because such associations or groups are familiar with the problems of their enterprises?"

"And could an effort of that sort be made valid by such a preface of generalities as to permissible aims as we find in section

1 of title I? The answer is obvious. Such a delegation of legislative power is unknown to our law and is utterly inconsistent with the constitutional prerogatives and duties of Congress."

DENIES CONGRESS MAY GRANT POWERS

Because the proposed reduction of acreage and of production of the so-called "basic agricultural commodities" is to be secured through voluntary agreements, the Government also contends that Congress has not delegated legislative powers to the Secretary; but can Congress, in order to effectuate the general policy expressed in section 2 of the act, lawfully delegate to the Secretary the power to determine whether, in consideration of rental or benefit payments to the producers, the production of any one of such basic agricultural commodities shall be reduced and to what extent reduced, without a finding by the Secretary that facts exist requiring a reduction of the acreage and of production of such agricultural commodity, or without some standard fixed by Congress by which action by the Secretary shall be determined; and further provide that upon his determination to pay such rental or benefit payments a tax shall be automatically imposed on the processing of such commodity for the purpose of providing revenue for such rental or benefit payments? We think not.

While the amount of the reduction of acreage or production of any basic commodity under this act is done by agreements and not by a code, the purpose and result is the same, viz: The control and regulation of a great intrastate industry, and the Secretary, with the approval of the President, is authorized to make regulations for carrying out powers vested in him and imposing a penalty for their violation.

If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress or to foretell the future limitations of local self-government.

OTHER POWERS FOUND VESTED IN SECRETARY

But these are not the only powers vested in the Secretary under the act. When a tax shall first be imposed on processing of such commodity depends on the joint action of both the Secretary and the producer, but if the Secretary finds or has reason to believe that a tax determined in accordance with the statistics in the Agricultural Department as to the purchasing power of such commodities in the two contrasting periods will cause such a reduction in the quantity of the commodity or products thereof domestically consumed as to result in an accumulation of surplus stocks of the commodity and in the depression of the farm price of the commodity, and if he finds, after hearings, that such result has occurred, he may make a new rate that will prevent an accumulation of such commodity or a depression of farm prices.

In readjusting the rate of tax there is no mathematical formula or standard provided in the act to guide the Secretary except the indefinite one of preventing an accumulation of surplus stock of any of the basic commodities or a depression in farm prices.

A finding or conclusion by the Secretary, after hearing, that the readjustment of the tax would carry out the congressional policy by preventing the accumulation of a surplus of the commodity amounts to no more than an expression of his opinion.

If it could be urged that there is a standard set up in section 9 of the act for determining the amount of the processing tax, viz, the equalizing of the purchasing power of the basic commodities with the pre-war period, it requires readjustments to such an extent as to render the standard so indefinite as to leave it entirely in the discretion of the Secretary what the amount shall be to accomplish that purpose.

He is also given authority to impose what is termed "compensating taxes"; that is, if the Secretary, after notice and hearing, finds that any competing commodity will cause the processors disadvantage from such competition by reason of excessive shifts in consumption between such commodities or the products thereof, he may specify the competing commodity and a compensating processing tax on the competing commodity necessary to prevent such disadvantage.

No standard or guide is here laid down to determine how the compensating tax shall be fixed or what elements shall be taken into consideration in determining the amount, except that it shall be determined by the amount necessary to prevent such disadvantage in competition.

We find no decision of the Supreme Court authorizing such a delegation of power to an administrative officer. On the contrary, the recent decision in the Panama Refining Co. case and the Schechter Poultry Corporation case, we think, clearly condemns it as unwarranted under the Constitution.

It is not contended that the receivers have been adversely affected by these last two provisions, and is adverted to for the purpose of showing the extent to which Congress has attempted to vest legislative power in the Secretary.

It is not difficult to understand, after studying the act, why the district court concluded that "it must . . . be conceded that legislative functions are conferred upon administrative officers by the act", or that "the Agricultural Adjustment Act indubitably authorizes an executive to exercise powers of a legislative character."

The district court, however, hesitated to hold the authority vested in the Secretary was an unlawful delegation of legislative power, because no decision of the Supreme Court at the time of his decision had held any of the recent acts of Congress unconstitutional on this ground. Since that time, however, the case of Panama Refining Co. and the Schechter Poultry Corporation case have been decided.

PROCESSING AND FLOOR TAXES

Upon determining that benefit payments are to be made to the producers, the Secretary is further vested with the power to fix the amount of the processing tax on any commodity provided for in section 16 and at a rate that will equal the difference between the current average farm price for the commodity and its fair exchange value during the 5-year pre-war period, which fair exchange value is to be determined by him from statistics in the Department of Agriculture.

If the district court, however, understood the receivers as agreeing that the Secretary had correctly followed the mandate of Congress in fixing the tax in the first instance, or as waiving any claim that he had in this respect acted outside the powers vested in him under the act, then, although he appears for some reason outside of what is termed a "mathematical formula" based on the statistics of the Agricultural Department, to have fixed a tax of 4.2 cents per pound, when the mathematical application of the statistics in the Agricultural Department would establish the rate of the tax at 4.34 cents per pound, the error cannot be taken advantage of in this court.

If Congress has invaded a field over which it has no control under the Constitution, or the Secretary has been unlawfully vested with legislative powers, the exercise of which has affected these appellants, it is not necessary to consider whether the processing and floor taxes are direct taxes or, if excise taxes, are not uniformly laid.

The decree of the district court is reversed, and the case is remanded to that court with directions to enter a decree for the appellants.

Mr. FRAZIER. Mr. President, a few moments ago, when the Senator from New York [Mr. COPELAND] was speaking, he implied that the amount of the tariff had nothing to do with the price of flax, or something of the kind. I desire to say that, in my opinion, the amount of the tariff has nothing to do with the price of paint, either. The price of paint for a number of years has been, it seems to me, unreasonably high compared with the price of flaxseed or the price of linseed oil, which goes into the paint.

I find from the 1935 yearbook, which has just come out, that the average price of flaxseed to the farmer in 1932-33 was 88.1 cents. The year preceding that, 1931-32, the average price was \$1.16 per bushel; but the price of the best grades of paint using linseed oil has been consistently, I think, about \$4 a gallon. I believe the N. R. A. code put up the price of the best grades a little higher than that.

In my opinion, however, the amount of the tariff has very little to do with the price of paint; and if we are going to protect flaxseed, we should also have a compensatory tax on the substitutes which come in here and take the place of flaxseed—perilla seed, hempseed, and things of that kind.

So I hope the amendment of the Senator from Minnesota will prevail, as we need protection for our linseed oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee. [Putting the question.] The ayes appear to have it.

Mr. KING. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	King	Radcliffe
Ashurst	Copeland	La Follette	Reynolds
Austin	Costigan	Lewis	Robinson
Bachman	Davis	Logan	Russell
Bailey	Dickinson	Lonergan	Schall
Bankhead	Dieterich	McAdoo	Schwellenbach
Barbour	Donahey	McCarran	Sheppard
Barkley	Duffy	McGill	Shipstead
Bilbo	Fletcher	McKeller	Smith
Black	Frazier	McNary	Steiwer
Bone	George	Maloney	Thomas, Okla.
Borah	Gerry	Metcalf	Townsend
Brown	Gibson	Minton	Trammell
Bulkeley	Glass	Moore	Truman
Bulow	Gore	Murphy	Tydings
Burke	Guffey	Murray	Vandenberg
Byrd	Hale	Neely	Van Nuys
Byrnes	Harrison	Norbeck	Wagner
Capper	Hastings	Norris	Walsh
Caraway	Hatch	Nye	Wheeler
Carey	Hayden	O'Mahoney	White
Chavez	Holt	Overton	
Clark	Johnson	Pittman	
Connally	Keyes	Pope	

The PRESIDING OFFICER. Ninety-three Senators having answered to their names, there is a quorum present.

The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee.

Mr. KING. Mr. President, I shall not ask for a record vote, but I should like to have a division.

On a division, the amendment to the amendment was agreed to.

Mr. GEORGE. Mr. President, I have sent an amendment to the desk, which I ask to have read.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. In the committee amendment on page 38, following the amendment of Mr. SHIPSTEAD, just agreed to, it is proposed to insert the following:

No tax shall be imposed under section 15 (d) of the Agricultural Adjustment Act, as amended, upon tung seed or their products, including tung oil.

Mr. GEORGE. Mr. President, I do not believe there is opposition to this amendment, but, since it may be thought that tung oil is competitive with linseed oil, it seems to me desirable to have the amendment included in the bill, because the production of tung oil is a new industry. The planting of tung trees, which commenced about 1923 in the States of Florida, Georgia, and around the Gulf coast of Texas, has now reached considerable proportions.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. SHIPSTEAD. My information is that the amendment is not objectionable. That is my opinion from the information I have as to the competitive qualities of tung oil. I can see no objection to the amendment.

Mr. McNARY. May I ask the Senator whether he specifies the amount of the tax?

Mr. GEORGE. I may say to the Senator from Oregon that the amendment would prevent the Secretary of Agriculture from putting a compensatory or equalizing tax on tung oil.

Mr. McNARY. I thank the Senator. I thought this was to provide a compensatory tax, not specifying the amount.

Mr. GEORGE. No; it is to relieve this new domestic industry from the possibility of an equalizing tax.

Mr. JOHNSON. I should like to have the amendment again stated.

The PRESIDING OFFICER. The clerk will again state the amendment.

The CHIEF CLERK. In the committee amendment, on page 38, following the amendment of Mr. SHIPSTEAD, just agreed to, it is proposed to insert the following:

No tax shall be imposed under section 15 (d) of the Agricultural Adjustment Act, as amended, upon tung seed or their products, including tung oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. MOORE] has offered an amendment to the amendment, which will be stated.

The CHIEF CLERK. On page 38, line 4, in the committee amendment it is proposed to strike out the words "flaxseed, or"; in lines 8 and 9, to strike out the words "in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds"; and in line 13, to strike out the words "flaxseed and".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Jersey.

Mr. MOORE. Mr. President, the purpose of the amendment may be briefly stated. In New Jersey there are a number of large linoleum manufacturers. There are also many paint manufacturers and many varnish manufacturers. Those manufacturers employ thousands of workers. If the committee amendment as it now stands should be enacted into law these companies would necessarily have to throw thousands of people out of employment. There is already a tariff of 65 cents a bushel on imported flaxseed and 4½ cents a pound on imported linseed oil.

Linseed oil is the drying oil used in the manufacture of linoleum; it is used in the manufacture of varnish and in the manufacture of paint. The tariff duty is 100 percent effective and, as a result, flaxseed generally sells for 65 cents

a bushel higher in the United States than in the world markets, while linseed oil today sells from 8½ to 9 cents a pound in the American market, whereas in the European market it sells for 4 cents a pound.

Notwithstanding the high tariff, the domestic production of flaxseed, which has never been quite sufficient to supply half of our requirements in America, has dwindled during the last 5 years, so that it has become necessary to import nearly three-quarters of our requirements.

The proposed processing tax would, in effect, raise the protection to the domestic producer from 65 cents to \$1 a bushel. It would mean a processing tax of 1½ cents a pound on linseed oil, increasing the price on the commodity by that amount. As linseed oil is the chief raw material used in the manufacture of linoleum and also in paints and in varnishes, it would virtually make it impossible for the domestic linoleum and paint industry to compete in the world market with the British and Netherlands manufacturers. It would place a burden of \$5,000,000 annually on the consumers of drying oils in America.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, I have before me the Agricultural Year Book for 1935, which just has been issued, and I find that the average production of flaxseed per acre for the 10-year period from 1922 to 1931—that was before the drought—was 7.3 bushels per acre, and at the prices which ranged at that time the farmers were not getting cost of production for their flaxseed.

The average production declined during the years 1933 and 1934 because of the drought throughout a large part of the flaxseed-producing area. The average yield in 1933 was only 5.2 bushels per acre, and in 1934 it was 5.4 bushels per acre. The average price for flaxseed, according to the same Agricultural Year Book, in 1931-32 was \$1.16½ per bushel to the farmers, and the average price in 1932-33 was only 88.1 cents per bushel, in spite of the fact that there was a 65-cent duty on flaxseed. So the amount of the duty is not fully effective, and according to the Department of Agriculture, has not been at any time since the duty was put on.

As I previously stated, I am satisfied that the amount of the duty has little to do with the prices of paint or the prices of linoleum. They are regulated by the manufacturers, who apparently make a mighty good profit. The farmers are producing their product at a loss. The farmers are entitled to more protection. This bill, dealing with agriculture, is for the benefit of the farmers and not for the benefit of the manufacturers.

Mr. President, I trust that the amendment of the Senator from New Jersey will not be agreed to.

Mr. COPELAND. Mr. President, I hope the amendment of the Senator from New Jersey will prevail. Here is an item, inserted in this bill without any hearing, without any notice, which affects a great industry, and which comes to them as a surprise. As I said a little while ago, undoubtedly it will serve to hamper legitimate enterprises now employing thousands of men and, as I view it, it is immoral and indecent to attempt to help an industry where there is no surplus, where there are natural reasons for the decline, as pointed out by the Secretary of Agriculture. So, all in all, I hope the amendment offered by the able Senator from New Jersey will be accepted by the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee. [Putting the question.] The ayes seem to have it.

Mr. NORBECK. I ask for a division.

Mr. NYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bilbo	Byrd	Coolidge
Austin	Borah	Byrnes	Copeland
Bachman	Brown	Capper	Davis
Bailey	Bulkeley	Caraway	Dickinson
Bankhead	Bulow	Carey	Dieterich
Barbour	Burke	Chavez	Donahay

Duffy	Keyes	Murray	Shipstead
Fletcher	King	Neely	Smith
Frazier	La Follette	Norbeck	Steiwer
Gerry	Logan	Norris	Thomas, Okla.
Gibson	Loneragan	Nye	Townsend
Glass	McAdoo	O'Mahoney	Trammell
Gore	McCarran	Overton	Truman
Guffey	McGill	Pittman	Tydings
Hale	McKellar	Pope	Vandenbergh
Harrison	McNary	Radcliffe	Wagner
Hastings	Maloney	Reynolds	Walsh
Hatch	Metcalf	Robinson	Wheeler
Hayden	Minton	Schall	White
Holt	Moore	Schwellenbach	
Johnson	Murphy	Sheppard	

The VICE PRESIDENT. Eighty-two Senators have answered to their names. A quorum is present. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee.

Mr. NYE. On that question I ask for the yeas and nays. The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. ROBINSON. I desire to announce the unavoidable absence of the Senator from Arizona [Mr. ASHURST], the Senator from Kentucky [Mr. BARKLEY], the Senator from Alabama [Mr. BLACK], the Senator from Washington [Mr. BONE], the Senator from Missouri [Mr. CLARK], the Senator from Texas [Mr. CONNALLY], the Senator from Colorado [Mr. COSTIGAN], the senior Senator from Georgia [Mr. GEORGE], the Senator from Illinois [Mr. LEWIS], the Senator from Louisiana [Mr. LONG], the junior Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS].

The result was announced—yeas 49, nays 33, as follows:

YEAS—49

Adams	Copeland	Hatch	Reynolds
Austin	Davis	Keyes	Schwellenbach
Bachman	Dickinson	King	Steiwer
Bailey	Dieterich	Loneragan	Townsend
Barbour	Donahey	McCarran	Trammell
Brown	Duffy	McNary	Tydings
Bulkley	Gerry	Maloney	Vandenburgh
Burke	Gibson	Metcalf	Wagner
Byrd	Glass	Minton	Walsh
Byrnes	Gore	Moore	White
Carey	Guffey	O'Mahoney	
Chavez	Hale	Overton	
Coolidge	Hastings	Radcliffe	

NAYS—33

Bankhead	Hayden	Murray	Sheppard
Bilbo	Holt	Neely	Shipstead
Borah	Johnson	Norbeck	Smith
Bulow	La Follette	Norris	Thomas, Okla.
Capper	Logan	Nye	Truman
Caraway	McAdoo	Pittman	Wheeler
Fletcher	McGill	Pope	
Frazier	McKellar	Robinson	
Harrison	Murphy	Schall	

NOT VOTING—14

Ashurst	Clark	George	Thomas, Utah
Barkley	Connally	Lewis	Van Nuys
Black	Costigan	Long	
Bone	Couzens	Russell	

So Mr. MOORE's amendment to the committee amendment was agreed to.

Mr. GUFFEY. Mr. President, to the committee amendment I offer the amendment which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment offered by the Senator from Pennsylvania to the amendment reported by the committee will be stated.

The CHIEF CLERK. In the amendment of the committee, on page 38, line 4, it is proposed to strike out "and in the case of barley at the rate of 25 cents per bushel of 48 pounds"; on page 38, line 13, to strike out "and barley"; and on page 38, at the end of section 12 (b) 5, to insert the following: "Amend section 6 of the Agricultural Adjustment Act, as amended, by eliminating therefrom the word 'barley.'"

Mr. GUFFEY obtained the floor.

Mr. FRAZIER. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. FRAZIER. Mr. President, in the committee amendment barley is the only thing left, and I cannot see any need of this amendment.

The VICE PRESIDENT. If the Senate should amend the amendment as the Senator from Pennsylvania suggests, there would not be anything left in the amendment.

Mr. GUFFEY. Mr. President, if it should be adopted, the effect of the proposed amendment would be to eliminate barley from the list of articles on which the Secretary of Agriculture may impose processing taxes. A very large portion of the barley crop is used for feed, which under the law would not in any event be subject to processing taxes. The bulk of the barley which would be subject to processing taxes under the bill is that used in the manufacture of beer, a product already so highly taxed that no additional tax should be placed on the raw material.

Mr. FRAZIER. Mr. President, it is true that a good deal of barley is used for feed, which would not come under this provision if it should go into effect. The bulk of the barley which would be affected is that which is used by brewers in the manufacture of beer. I do not know what is the price of a barrel of beer, but I talked with a man who said he had been connected with the operation of a brewery a few years ago and was very familiar with the prices and the amount of ingredients that went into the manufacture of a barrel of 31 gallons of beer. He said there were about 1 pound of hops, 5 pounds of barley, and a little yeast, the rest being water. Five pounds of barley, at the present price, would be less than 5 cents; the yeast, I presume, would be probably 1 or 2 cents; and I do not know how much hops are a pound, but not very much.

If the Senator from Pennsylvania is more interested in having reduced the cost of beer to the brewers than he is having a fair price afforded the farmers who produce the barley, his amendment is all right.

Mr. NORBECK. Mr. President, does the Senator think if the price of barley were cut 5 cents that beer would be any cheaper?

Mr. FRAZIER. I doubt it. Certainly this little tax on barley which might raise the price to 50 or 60 cents a bushel would not affect the price of beer, because the cost of the 5 pounds of barley which go into the manufacture of a barrel of beer is infinitesimal as compared to the sale price of the beer; and, of course, when divided up into the glass or bottle it is so small as to be, if possible, less than infinitesimal.

I was greatly disappointed by the vote as to flaxseed. About a dozen States in the Union raise flaxseed. A majority of the Senate struck flaxseed out of the bill by almost a 2-to-1 vote in order to protect the manufacturers of linoleum and paints, to the detriment of the farmers who produce flaxseed in a dozen States of this Nation. That is all right, if that is the attitude the Senate wants to take; but, Mr. President, unless something shall be done to increase the prices of products raised by the American farmer so as to give him a price that will return him the cost of production for his product, not only the farmers will go broke but the remainder of the people along with the farmers will also go broke. So if the Senate wants the Nation, including the manufacturers of the raw materials of agriculture, to go broke, they may strike from the bill the agricultural products which we are trying to protect, barley among the rest.

The PRESIDING OFFICER (Mr. McKELLAR in the chair). The question is on the amendment offered by the Senator from Pennsylvania [Mr. GUFFEY] to the amendment reported by the committee. [Putting the question.] The Chair is in doubt.

Mr. WALSH and Mr. FRAZIER asked for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. KING (after having voted in the affirmative). I have a general pair with the junior Senator from California [Mr. McADOO]. In his absence I withdraw my vote.

Mr. AUSTIN. The Senator from Delaware [Mr. HASTINGS] is unavoidably detained. If present, he would vote "yea." He has a general pair with the Senator from Utah [Mr. THOMAS].

Mr. LEWIS. I desire to announce the unavoidable absence of the Senator from Kentucky [Mr. BARKLEY], the Senator from Washington [Mr. BONE], the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. PITTMAN], the Senator from Wisconsin [Mr. DUFFY], the Senator from Louisiana [Mr. LONG], the Senator from Califor-

nia [Mr. McAdoo], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Montana [Mr. WHEELER].

The result was announced—yeas 40, nays 42, as follows:

YEAS—40

Ashurst	Copeland	Keyes	Reynolds
Austin	Davis	Lewis	Sheppard
Bachman	Costigan	Loneragan	Steinwer
Barbour	Dieterich	McCarran	Trammel
Bulkley	Donahey	McNary	Tydings
Burke	Gerry	Maloney	Vandenberg
Carey	Gibson	Metcalf	Van Nuys
Chavez	Gore	Moore	Wagner
Clark	Guffey	O'Mahoney	Walsh
Coolidge	Hale	Radcliffe	White

NAYS—42

Adams	Connally	La Follette	Overton
Bailey	Costigan	Logan	Pope
Bankhead	Fletcher	McGill	Robinson
Bilbo	Frazier	McKellar	Schall
Black	George	Minton	Schwellenbach
Borah	Glass	Murphy	Shipstead
Brown	Harrison	Murray	Smith
Bulow	Hatch	Neely	Thomas, Okla.
Byrnes	Hayden	Norbeck	Truman
Capper	Holt	Norris	
Caraway	Johnson	Nye	

NOT VOTING—14

Barkley	Duffy	McAdoo	Townsend
Bone	Hastings	Pittman	Wheeler
Byrd	King	Russell	
Couzens	Long	Thomas, Utah	

So Mr. GUFFEY's amendment to the amendment, reported by the committee, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. WALSH. Mr. President, I move to reconsider the vote by which the Senate adopted the committee amendment, inserting paragraph (G), on page 18, after line 20. This amendment was adopted by two votes. Many Senators, including myself, were absent at the time. The debate was extended, and I think there is no need for further discussion. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. The Senator from Massachusetts moves to reconsider the vote by which the committee amendment on page 18, after line 20, was adopted. The amendment will be stated.

The CHIEF CLERK. The committee amendment, as adopted, inserts, on page 18, after line 20, the following:

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. WALSH. I renew my request for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. LEWIS. I wish to announce the necessary absence of the Senator from Washington [Mr. BONE], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Louisiana [Mr. LONG], and the Senator from Utah [Mr. THOMAS].

The result was announced—yeas 48, nays 43, as follows:

YEAS—48

Adams	Coolidge	Hale	Overton
Ashurst	Copeland	Hastings	Radcliffe
Bachman	Davis	Hatch	Schall
Bailey	Dickinson	Keyes	Schwellenbach
Barbour	Dieterich	King	Steinwer
Borah	Donahey	Loneragan	Townsend
Bulkley	Duffy	McAdoo	Trammel
Burke	Fletcher	McCarran	Tydings
Byrd	George	McNary	Vandenberg
Carey	Gerry	Maloney	Wagner
Clark	Glass	Metcalf	Walsh
Connally	Gore	Moore	White

NAYS—43

Austin	Frazier	McKellar	Reynolds
Bankhead	Gibson	Minton	Robinson
Barkley	Guffey	Murphy	Russell
Bilbo	Harrison	Murray	Sheppard
Black	Hayden	Neely	Shipstead
Brown	Holt	Norbeck	Smith
Bulow	Johnson	Norris	Thomas, Okla.
Byrnes	La Follette	Nye	Truman
Capper	Lewis	O'Mahoney	Van Nuys
Caraway	Logan	Pittman	Wheeler
Costigan	McGill	Pope	

NOT VOTING—5

Bone	Couzens	Long	Thomas, Utah
Chavez			

So Mr. WALSH's motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the committee known as paragraph (G).

Mr. WALSH. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the name of Mr. ADAMS.

Mr. SMITH. Mr. President, before the vote is taken I wish to remind the Senate of the fact that yesterday afternoon this question was debated at length. The vote upon it has now been reconsidered. All I desire to say about the matter is that those who are familiar with the bill know that this is the one attempt in the bill to give those who produce the raw material—the farmers—an opportunity, when they secure control of at least 50 percent of any given commodity which comes under the bill, to agree upon a minimum price for it.

All those who desire to deny the farmer the privilege, through the agency of the Government, of having something like an organization to offset the organizations from which he buys, may vote against the amendment.

Mr. GEORGE. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Georgia?

Mr. SMITH. I do.

Mr. GLASS. Mr. President, I make the point of order that a roll call was ordered, and the Senator from Colorado [Mr. ADAMS] answered to his name.

Mr. SMITH. No; I was on my feet addressing the Chair before the roll call began.

The PRESIDING OFFICER. The clerk did not hear the response of the Senator from Colorado.

Mr. SMITH. But, in any event, the Senator from South Carolina was on his feet.

The PRESIDING OFFICER. That is correct.

Mr. GEORGE. Mr. President, I now desire to ask the Senator if this provision does not leave it to the handlers or distributors to fix the price.

Mr. SMITH. No. If the Senator will read the provision which is in italics, he will see just what it means.

Mr. GEORGE. I have it before me, Mr. President. It says:

Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof—

That is the distributor selling to the consumer.

Mr. SMITH. Yes.

Mr. GEORGE. It continues:

Provided, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers—

That is cooperatives, I presume—

or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. SMITH. All through the cooperation of the producers.

Mr. GEORGE. Will the Senator explain to me what paragraph (F) means?

Mr. SMITH. Paragraph (F) means that the minimum resale price is there fixed for the handler. After the minimum price of the producer is fixed, that is the resale price.

Mr. GEORGE. That is what I am getting at; so that the amendment we are voting on deals with the resale price to the consumer?

Mr. SMITH. No. Paragraph (F) deals with the resale price, and the Senate added paragraph (G), printed in italics—that the producer, or his agent, or an association handling 50 percent of the volume of the commodity, shall fix the first minimum price to the producer. The first paragraph provides that the producers shall have a resale price, so that some outsiders may not come in and chisel in on them.

Mr. GEORGE. So the price to the handler would be fixed, and the price at which the handler or producer must offer the commodity to the public would also be fixed.

Mr. SMITH. The minimum price.

Mr. GEORGE. Yes; the minimum price.

Mr. BARKLEY. Mr. President, will the Senator from South Carolina yield to me?

Mr. SMITH. I yield.

Mr. BARKLEY. For years Congress has been attempting to encourage cooperative marketing among farmers in order to give them an advantage which would offset their disadvantage through the organization of almost all others from whom they buy their necessities.

Mr. SMITH. Yes.

Mr. BARKLEY. We thought so well of that that we incorporated in the Clayton Act a provision that no such organization should be regarded as a violation of the anti-trust law.

Mr. SMITH. Exactly.

Mr. BARKLEY. From time to time there have been organized all over the country farmers' cooperative marketing associations. We have had them in Kentucky affecting tobacco. There have been such organizations in Virginia and North Carolina. They have also been formed in other parts of the country with respect to different farm products in order that, by cooperation, the farmers might be able to sell their own products through such associations and have some voice in the fixing of the prices received by them.

If I understand the amendment, it simply sanctions and legalizes in this proposed act what Congress and the people for years have been attempting to do through the organization of farm cooperative marketing associations.

Mr. SMITH. Mr. President, let me call the attention of the Senator to the fact that the reason why the cooperatives have heretofore failed has been because they never could get control of a sufficient amount of a given commodity to enable them to establish a price. This is an attempt, with the cooperation of the Government, to enable them to get control of at least 50 percent, and then let them agree upon what they think is a reasonable price.

Mr. NEELY and Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield; and if so, to whom?

Mr. SMITH. I yield to the Senator from West Virginia.

Mr. NEELY. Mr. President, I should like to read a telegram which I have just received, and I should like to have the views of the chairman of the committee with regard to it. The telegram is from Parkersburg, W. Va., and is as follows:

Fruit growers of our State threatened with domination by more powerful Western States if price-fixing section of A. A. A. becomes law. This section allows bureaucratic control of prices on perishable fruits, which will probably be ruinous instead of helpful to West Virginia growers.

Does the chairman of the committee believe there is any basis for the fear expressed in this telegram?

Mr. SMITH. I do not, for the reason I have just stated. This amendment largely affects the two parties to the first process, the producer, and the first handler. Under this provision the producers, having control of 50 percent of the produce, will name a minimum price. Then the minimum resale price will be agreed upon by those who sell.

In addition to that, the bill provides for regional processing and marketing so that, as in the case of citrus fruits, for example, as I explained, Florida is to itself and can agree upon what it pleases. A majority of the producers of citrus fruits will determine what they shall do or whether they shall do anything. The same is true of the Rio Grande region and of California. So that these regions will be enabled to protect themselves in their marketing agreements.

The regions will be established according to the will of those who consider that they are in a homogeneous section.

Mr. NEELY. Mr. President, if the Senator will yield for one more question, is it not a fact, then, that the fruit growers of West Virginia and those in the region of which they are a part would themselves determine the price in the first instance instead of the price being determined on the Pacific coast?

Mr. SMITH. Yes.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BYRD. I cannot permit that statement to go unchallenged.

Mr. SMITH. I think the Senator has challenged nearly every statement the chairman of the committee has made.

Mr. BYRD. This colloquy sustains what I have been contending. The Senator from South Carolina has frequently said that no marketing agreement can be promulgated without the consent of the producer, when his own bill gives the power to 50 percent of the handlers to promulgate such agreements.

I wish to refer, however, to what the Senator from West Virginia has said. There is no requirement in the bill that the marketing agreements shall be regional. In the discretion of the Secretary they may be Nation-wide, if he chooses. Therefore, the question asked by the Senator from West Virginia is whether the fruit growers of the West could impose minimum prices on the fruit growers of the East.

Mr. SMITH. Can the Senator point out in the bill a provision under which the Secretary may disregard regional agreements and have a Nation-wide set-up to suit himself?

Mr. BYRD. Mr. President, will the Senator point out a provision under which the Secretary of Agriculture is compelled to have regional agreements?

Mr. SMITH. I will read what is in the bill.

Mr. BYRD. Very well. From what page is the Senator about to read?

Mr. SMITH. Page 23. It reads:

REGIONAL APPLICATION

No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

Mr. BYRD. That is the very point I make, that regional agreements are not required; they are simply discretionary with the Secretary of Agriculture. What the Senator has read sustains exactly what I said.

Mr. SMITH. When he finds that in any particular case the regional set-up does not effectuate the purposes of the act.

Mr. BYRD. Mr. President, the Senator made the positive statement that marketing agreements could not be made except by regions. I submit to the Senator that he has made a mistake in making that statement, because the bill provides that they shall only be regional to effectuate the declared policy of the act, and if they do not effectuate the declared policy of the act, they may be Nation-wide.

Mr. SMITH. But the agreements will be regional after it is discovered that as to any one product or commodity the object of the measure, which is to get a better price for the farm products, cannot be more effectually carried out.

Mr. BYRD. But that is in the discretion of the Secretary.

Mr. SMITH. The discretion of the Secretary would be limited by the first part of this provision, which would still leave it within the hands of the producers to determine whether or not a regional set-up was more satisfactory to them than one covering the entire scope.

Mr. BYRD. I submit to any Member of the Senate who will read the section just read by the Senator that it is left in the hands of the Secretary.

Mr. BORAH. Mr. President, I should like to know definitely what commodities this price-fixing provision will cover.

Mr. SMITH. I will state to the Senator from Idaho that if he will turn to page 16, he will find that it covers the products named in subsection (6), and Senators are familiar with what was stricken out yesterday.

Mr. BORAH. Let us read it. There was a great deal of dispute yesterday about what it covered.

Mr. SMITH. As I recall, the bill will read:

In the case of fruits (including pecans and walnuts but not including apples and their products, tobacco and its products, vegetables, not including vegetables for canning) and their products.

"Soybeans", I understand, is still in the bill. "Hops" is out. Bees went out through Virginia. [Laughter.] "Poultry" is out.

Mr. BORAH. In other words, it covers fruits, not including apples—

Mr. SMITH. Yes; and not including fruits for canning.

Mr. BORAH. And tobacco and its products, vegetables and their products, and then it covers soybeans.

Mr. SMITH. And naval stores.

Mr. BORAH. That is all the price-fixing proposition would cover?

Mr. SMITH. Yes.

Mr. BARKLEY. Mr. President, I understand that paragraph (F) of the House text is a part of the bill.

Mr. SMITH. Yes.

Mr. BARKLEY. Assuming, for the sake of the argument, or for any other purpose, that paragraph (F) permits the handlers of certain of these commodities, if 50 percent of the total quantity of the commodity or product covered by such order is controlled, to fix a minimum price—

Mr. SMITH. For resale.

Mr. BARKLEY. For resale.

Mr. SMITH. Yes.

Mr. BARKLEY. Assuming that to be true, and it is in the bill as it passed the House, and unless stricken out by the Senate will be in the bill as it is enacted, if paragraph (G) is not agreed to the result will be that the handlers of these products, if they control 50 percent, may fix a minimum price for resale, while the producers themselves will have no voice and no power in the fixing of the price at which they sell a given product to the handlers.

Mr. SMITH. That was the reason for the Senate committee amendment, to make it entirely clear. It was rather an implication that the Department would through its dealings with the farmers about marketing agreements take care of them in the first place; and the bill was so drawn as to leave it open to the criticism that there was being put into the hands of the handlers through the bill the power of fixing the price, proceeding upon the assumption that in the original text they would through the marketing agreements deal first with the farmers, and in these agreements the handlers were included. But the Senate, to make it perfectly clear, adopted this amendment. There is another place in the bill where a similar provision occurs, and an amendment will be offered to include that so as to make it conform in this text to what is provided in the original act.

Mr. BAILEY. Before the Senator takes his seat, may I ask him if my understanding is correct that we are creating a system of marketing areas within which one may sell and one may not sell?

Mr. SMITH. Oh, no.

Mr. BAILEY. What is the object of the area?

Mr. SMITH. The object of the area is more conveniently to ascertain just what the opinion is, just as we did in connection with citrus fruits in California.

Mr. BAILEY. Does the Senator mean that the opinion in such an area would govern?

Mr. SMITH. Yes, sir; in such an area; but it would not keep anyone else from coming in.

Mr. BAILEY. Very well. There is another matter about which I have some trouble. Am I to understand that paragraph (G), which we are now considering, provides that an association or cooperative marketing organization having control of 50 percent of the volume of a commodity may determine the price at which the first handler shall sell it—

not the price at which it sells it to the handler but the price at which the first handler shall sell it?

Mr. SMITH. No, Mr. President; that provision is contained in paragraph (F). Paragraph (G) fixes the price at which the producer shall sell it; and in paragraph (F), which precedes it, there is provision that the handlers handling 50 percent may determine the resale price.

The PRESIDING OFFICER. The time of the Senator from South Carolina on the amendment has expired.

Mr. GEORGE. Mr. President, I wish to ask the Senator from South Carolina a question. If the bill does not fix the areas, or if they may not be fixed under its provisions, how is it that the price may be fixed within a given area, and how is it that a uniform price would not exist throughout the country?

Mr. SMITH. Mr. President, a uniform price does not now exist throughout the country.

Mr. GEORGE. I know; but I am asking why it would not exist if we should establish it by law.

Mr. SMITH. Then we shall merely be conforming to the regions where perhaps the prices now differ.

Mr. GEORGE. If the bill does not establish regions, how does it follow that there can be established a price which would be nonuniform throughout the country? If one should be permitted to ship freely from one region into another, how would he be affected by the price in the region into which he was shipping his product?

Mr. SMITH. Under the terms of the bill, if he ships into a certain region he will conform to the price in that region.

Mr. GEORGE. Then the bill does establish regions?

Mr. SMITH. It does establish regions and regional prices. I did not say it did not.

Mr. GEORGE. Exactly. That is what I wanted the Senator to come to—that there cannot be a regional price without establishing regions.

Mr. SMITH. That is true.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 18, paragraph (G). On that question the yeas and nays have been demanded and ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS (when his name was called). On this question I have a pair with the Senator from Alabama [Mr. BLACK], who is detained from the Senate by committee duties. I therefore withhold my vote. If the Senator from Alabama were present, he would vote "yea." If I were at liberty to vote, I should vote "nay."

Mr. BYRD. Mr. President, a parliamentary inquiry. If a Senator desires to vote to agree to the committee amendment, he should vote "yea", and if he desires to vote to reject the committee amendment he should vote "nay"?

The PRESIDING OFFICER. That is correct.

Mr. MOORE (when his name was called). On this question I have a pair with the junior Senator from Pennsylvania [Mr. GUFFEY], and therefore withhold my vote. If the Senator from Pennsylvania were present, he would vote "yea." If I were at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. LEWIS. I wish to announce that the Senator from Alabama [Mr. BLACK], the Senator from Indiana [Mr. MINTON], and the Senator from Washington [Mr. SCHWELLENBACH] are detained by a meeting of the Lobby Committee.

I also wish to announce the necessary absence from the Senate of the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Louisiana [Mr. LONG], the Senator from California [Mr. McADOO], the Senator from Nevada [Mr. PRITTMAN], and the Senator from Utah [Mr. THOMAS].

I desire further to announce a general pair between the Senator from Utah [Mr. THOMAS] and the Senator from California [Mr. McADOO]. I wish further to announce that the junior Senator from Washington [Mr. SCHWELLENBACH] is paired with the junior Senator from Indiana [Mr. MINTON]. If present and voting, the Senator from Washington would vote "nay", and the Senator from Indiana would vote "yea."

The result was announced—yeas 41, nays 44, as follows:

YEAS—41

Austin	Frazier	Murphy	Sheppard
Bankhead	Gibson	Murray	Shipstead
Barkley	Harrison	Neely	Smith
Bilbo	Hayden	Norbeck	Thomas, Okla.
Bone	Holt	Norris	Trammell
Brown	Johnson	Nye	Truman
Bulow	La Follette	O'Mahoney	Van Nuys
Byrnes	Lewis	Pope	Wheeler
Capper	Logan	Reynolds	
Caraway	McGill	Robinson	
Costigan	McKellar	Russell	

NAYS—44

Ashurst	Connally	Glass	Metcalf
Bachman	Coolidge	Gore	Overton
Bailey	Copeland	Hale	Radcliffe
Barbour	Davis	Hastings	Schall
Borah	Dickinson	Hatch	Stelwer
Bulkley	Dieterich	Keyes	Townsend
Burke	Donahay	King	Tydings
Byrd	Duffy	Loneragan	Vandenberg
Carey	Fletcher	McCarran	Wagner
Chavez	George	McNary	Walsh
Clark	Gerry	Maloney	White

NOT VOTING—11

Adams	Guffey	Minton	Schwellenbach
Black	Long	Moore	Thomas, Utah
Couzens	McAdoo	Pittman	

So the committee amendment on page 18, being paragraph (G), was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, and that the House insisted upon its disagreement to the amendments of the Senate numbered 17, 67, 68, 83, and 84 to the bill.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. McSWAIN, Mr. HILL of Alabama, Mr. MONTET, Mr. McLEAN, and Mr. PLUMLEY were appointed managers on the part of the House at the conference.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. TYDINGS. Mr. President, the amendment which was just rejected by the Senate, as I understand, proposed the insertion in the bill of paragraph (G) on page 18.

The VICE PRESIDENT. The Senator is correct.

Mr. TYDINGS. That being true, I ask the chairman of the committee whether he proposes to leave in the bill paragraph (F), to which paragraph (G) is a clarifying amendment and in the nature of a tie-in with paragraph (F)? If paragraph (G) goes out, certainly paragraph (F) ought to go out.

Mr. ROBINSON. Paragraph (F) is in the House text, and it is entirely independent of the amendment which was just voted on.

Mr. SMITH. Whatever action the Senate may take on paragraph (F) will come after the conclusion of the consideration of the committee amendments.

The VICE PRESIDENT. It is not in order now to move to strike out section (F) except by unanimous consent. The next amendment which has been passed over will be stated.

The CHIEF CLERK. On page 45, after line 16, it is proposed to insert a new section, as follows:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn or the products thereof."

Mr. COPELAND. Mr. President, there has been considerable discussion both on and off the floor regarding this amendment, which relates to rayon. Of course, personally, I should like to see it eliminated entirely from the bill, because it is very apparent to those of us who are interested in the rayon industry that it will be very sadly crippled if this amendment shall be adopted.

Mr. MURPHY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MURPHY. Will the Chair state what is under consideration at the moment? There has been so much confusion it has been impossible to understand.

The VICE PRESIDENT. Senators will kindly refrain from conversation to enable the clerk once more to read the amendment, so that Senators may know what is before the Senate.

The Chief Clerk again stated the amendment, on page 45, after line 16, to insert section 15.

Mr. COPELAND. Mr. President, we have discussed various ways of dealing with this problem. I do not think anyone is disposed to hurt the cotton industry, if that can be avoided; but we are equally anxious in our section of the country that the rayon industry be not injured. It is our contention that rayon does not compete with cotton in price, and it is very doubtful if it competes in style or use. I think this is so well understood by those who have studied the question that we may well decide whether we are going to eliminate the committee amendment entirely or whether we are going to accept the amendment which has been worked out by the committee.

Mr. BYRNES. Mr. President, will the Senator yield to me?

Mr. COPELAND. I yield.

Mr. BYRNES. I wish to state to the Senator that I desire to offer an amendment as a substitute, of which I think the Senator will approve, and which would include silk as well as rayon. I wanted to ask the members of the committee if, after the reading of the amendment and an explanation of it, they will not agree to it and let it be voted on; and if it should be adopted, then, if the Senator from New York is opposed to the entire section, he may vote against the committee amendment, as amended.

Mr. COPELAND. I am very glad to yield to the Senator from South Carolina for the purpose of presenting his amendment.

Mr. BYRNES. To the committee amendment, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. In lieu of the amendment reported by the committee, on page 45, beginning on line 17, it is proposed to insert the following:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsections:

"(g) There shall be levied, assessed, collected, and paid a processing tax, on the first domestic processing of any material which results in the production of rayon or other synthetic yarn suitable for commercial winding, at the rate of 5 cents per pound standard weight thereof.

"(1) The tax shall be measured by the yield in pounds of rayon or other synthetic yarn suitable for commercial winding.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn suitable for commercial winding' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where such yarn is in form either to be packaged and/or sold as such or to be used in further manufacturing.

"(3) Rayon and other synthetic fiber waste, staple fiber, ropes of more than 500 filaments, monofilaments, and the products thereof, shall be exempt from the processing tax imposed by subsection (g) of this section 9.

"(h) During any period after the date of the adoption of this amendment when a processing tax is in effect with respect to any material which results in the production of rayon or other synthetic yarn there shall be levied, assessed, collected, and paid:

"(1) Upon raw silk in which the sericin content exceeds 15 percent, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 10 cents per pound standard weight thereof;

"(2) Upon raw silk in which the sericin content is 15 percent or less, and upon silk advanced in manufacture to and including yarn, thread, and fabrics, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 12 cents per pound standard weight of silk (not including other textile fibers);

"(3) Upon wearing apparel and other manufactured products wholly or in chief value of silk, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 15 cents per pound standard weight of silk (not including other textile fibers);

"(4) Pierced cocoons, frisons, and other silk waste shall be exempt from any tax imposed by this section 9.

"(i) In lieu of the refunds or credits authorized to be made with respect to rayon or the products thereof and silk or the products thereof, under subsection (c) of section 15 and section 17 of this title, upon the delivery to any organization for charitable distribution or use, including any State or Federal welfare organization for its use, or upon the exportation to any foreign country and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, or the island of Guam, of any rayon or silk, or any product thereof, there shall be paid out of the amounts appropriated and made available by section 12 of this title, or there shall be credited, under rules and regulations to be made by the Secretary of Agriculture and the Secretary of the Treasury, an amount of money (1) in the case of rayon, equivalent to the amount of tax which would be payable with respect thereto under subsection (g) of this section 9 and (2) in the case of silk, based upon the quantity of silk by standard weight contained therein multiplied by the applicable rate of tax specified in subsection (h) of this section 9.

"(j) General provisions:

"(1) The taxes imposed by subsections (g) and (h) of this section 9 shall be at the rates fixed therein and shall not be altered by the Secretary of Agriculture, regardless of the rate of the processing tax in effect on cotton. If at any time the processing tax on cotton is wholly terminated, or if for any reason the provisions of subsections (g), (h), or (j) of this section 9 are held invalid or become inoperative, the provisions of subsections (g) to (j), inclusive, of this section 9 shall thereupon simultaneously cease to be in effect.

"(2) The provisions of section 8, subsection (d) of section 15, and paragraph (1) of subsection (a) of section 16 of this title shall not apply in the case of rayon, or other synthetic yarn, or silk, or the products thereof.

"(3) The provisions of subsections (g), (h), (i), and (j) of this section 9 shall become effective at 12:01 a. m. eastern standard time of the day following the date of the adoption of this amendment.

"(4) For silk and products thereof the term 'standard weight' means the moisture-free weight plus 11-percent moisture regain thereon.

"(5) The term 'moisture-free weight' means the total weight (other than moisture) of dry clean fiber plus sericin, oil, sizing, and/or loading or weighting.

"(6) For rayon or other synthetic yarn the term 'standard weight' means the dry clean fiber weight plus 11-percent moisture regain thereon in the case of synthetic products of cellulose base, or the dry clean fiber weight plus 7.5-percent moisture regain in the case of synthetic products of cellulose ester base."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Carolina to the amendment reported by the committee.

Mr. McNARY. Mr. President—

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Oregon?

Mr. BYRNES. I yield.

Mr. McNARY. Is the amendment just read an amendment to the bill?

The VICE PRESIDENT. It is an amendment, in the form of a substitute, for the committee amendment on page 45, ending at line 20, on page 46.

Mr. BYRNES. It is an amendment, by way of a substitute, for the committee amendment.

Mr. McNARY. Then I understand the language proposed to be inserted by the committee is to be stricken entirely out of the bill and the language suggested by the Senator from South Carolina is to be inserted in the bill?

Mr. BYRNES. That is correct.

Mr. McNARY. Will the Senator explain his amendment?

Mr. BYRNES. Yes; I desire to do so.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. BYRNES. I yield.

Mr. HASTINGS. May I inquire if the Senator expects action upon the amendment at this time without any Senator having an opportunity to read or consider it?

Mr. BYRNES. The amendment was printed and is on the Senator's desk, and I assumed he had read it. I think I can explain it.

Under the existing law the Department has held hearings at the request of cotton manufacturers in order to determine whether rayon is a competitive commodity upon which the processing tax should be levied in accordance with the authority given to the Secretary of Agriculture. The act, however, provided that the competitive tax should be levied only when there was an excessive shifting of the purchasing power to the competitive commodity, in this instance to rayon. Because of the construction placed upon the words "excessive shifting", no tax was ever levied on rayon.

The cotton manufacturers have contended that they have been subjected to unfair competition because the processing tax necessarily increased the price of their commodity and they were forced to compete with rayon.

The position of the rayon manufacturers is, of course, that they would prefer not to have any processing tax levied upon their commodity, but if a tax is to be levied, they believe it should be levied in accordance with the provisions contained in the amendment which I have offered and not in accordance with the provisions of the committee amendment.

The amendment which I have offered has been prepared as a result of conferences between representatives of the rayon industry and representatives of the Department of Agriculture and of the Internal Revenue Bureau.

Mr. BYRD. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. BYRNES. I yield.

Mr. BYRD. I may not have heard the Senator correctly, but I understood him to say the amendment is satisfactory to the manufacturers of rayon. Virginia produces one-half of the rayon produced in the United States, and our manufacturers are bitterly opposed to it.

Mr. BYRNES. The last words I uttered before the Senator rose were that the position of the rayon industry, as I understand, is that they do not want any processing tax levied, but if a processing is to be levied, they prefer that it be levied in accordance with the provisions of the amendment which I have offered, instead of the amendment which was reported by the committee. I also stated that the amendment had been prepared as a result of conferences between representatives of the rayon industry and representatives of the Department of Agriculture and of the Internal Revenue Bureau.

Mr. BYRD. Has the Senator a copy of his amendment?

Mr. BYRNES. It was printed, and a copy of it should be on the desk of the Senator.

Mr. McNARY. Mr. President, may I inquire if this proposal was ever submitted to the Committee on Agriculture and Forestry?

Mr. BYRNES. No. The amendment, with the change resulting from the conference referred to, was agreed upon only yesterday when I tendered the amendment and asked to have it printed.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BYRNES. Certainly.

Mr. WAGNER. Would the Senator care to state what particular individuals representing the rayon industry were present at the conference?

Mr. BYRNES. I shall be glad to state that. My information from the representatives of the Department is that Mr. Little, vice president of the Franklin Rayon Corporation, of Providence, R. I., who has been connected with the code authorities on this subject as well as retaining his position as vice president of the Franklin Rayon Corporation, and others were present, but that Mr. Little was the active participant in the discussions with reference to the amendment.

Mr. WAGNER. Did he have authority to speak for the rayon manufacturers?

Mr. BYRNES. I do not know, and, therefore, I cannot say that he did. I have no information that he represented himself as representing all and authorized to speak for all of the rayon producers.

Mr. WAGNER. Is it not a fact that the rayon industry generally is not satisfied with this particular proposal?

Mr. BYRNES. I think the Senator misunderstood me. What I said was that my information is that, if there is to be a tax, the rayon producers prefer the tax provided for in the amendment which I have tendered rather than the provisions contained in the amendment reported by the committee. I desire to explain the amendment which has been presented, and with the Senator's knowledge of the situation, he can then determine whether or not it is justified.

Mr. WAGNER. My knowledge is inferior to that of the Senator from South Carolina, but what I am trying to ascertain is who was able to speak for the industry with sufficient authority to say that this amendment would be acceptable generally to the rayon industry.

Mr. BYRNES. I again think the Senator misunderstood my statement because I would not go as far as that. I say that their position, as presented to me—

Mr. WAGNER. Whose position?

Mr. BYRNES. The position of the rayon producers as represented by Mr. Little and some other gentlemen interested in the industry, whose names I do not recall, is that they prefer the amendment which I have tendered rather than the committee amendment which is contained in the bill, and that is all. I would not go further.

Mr. WAGNER. Has the Senator any information as to the extent to which Mr. Little speaks for the industry?

Mr. BYRNES. No.

Mr. WAGNER. Or what percentage of the industry he speaks for?

Mr. BYRNES. No; I have said I do not know and I would not have anything I have said to be understood to mean anything more than I have actually stated as having been stated by him.

I desire to point out the differences between the committee amendment and the amendment which I have offered.

Mr. GLASS. Mr. President, will the Senator submit to an interruption?

Mr. BYRNES. Certainly.

Mr. GLASS. I have frequently had occasion to call attention to the fact that nobody, as it seems to me, ever rises in the Senate and speaks for the consumer. I should like to inquire if there were any representatives of the consumers of these products at the conference, and why it should be assumed that the wearers of rayon and of silk would want to be taxed out of existence?

I am not speaking alone for the rayon industry. I am speaking for the poorer people who cannot wear silk, but who can buy rayon. It seems to me that unless they were represented at the conference referred to their interest was entirely ignored.

It is true that Virginia produces about one-half of the rayon manufactured in this country. In that State it has come to be a great industry, employing many thousands of people. But I am not speaking altogether for the rayon industry. I am concerned about the people who wear rayon.

I do not think it should be so highly taxed as that it would be a burden upon them to buy it.

Mr. BYRNES. Let me say to the Senator from Virginia that, of course, I know he represents the consumers, as every other Senator on the floor represents consumers. I am not in position to answer whether any consumer of silk or rayon or cotton was present. I mentioned that matter solely because of the technical language used in the amendment, and I would not want it to carry any significance other than my words would justify as to the attitude of the rayon manufacturer who was participating in the framing of the amendment.

Mr. GLASS. Mr. President, will the Senator pardon me if I ask one further question?

Mr. BYRNES. Certainly.

Mr. GLASS. If it is not expected to pass the bill this afternoon, would the Senator be willing to have his amendment go over until tomorrow, so that those of us who are interested in both the industry and the consumers may have an opportunity to make some inquiry about it?

Mr. BYRNES. I have no objection at all; but, of course, I say that subject to the approval of the Senator in charge of the bill. I should like, however, to proceed to point out the differences, because thus far I have not been able to get beyond the mere statement as to the preparation of the amendment.

Mr. ROBINSON. The Senator had better use his time.

Mr. BARBOUR and Mr. WAGNER addressed the Chair.

The VICE PRESIDENT. Does the Senator from South Carolina yield; and if so, to whom?

Mr. BYRNES. I yield first to the Senator from New Jersey, who first rose.

Mr. BARBOUR. Mr. President, I am reluctant to interrupt the Senator. I realize that he has been interrupted a number of times; but in the early part of his remarks he made reference to the competition of rayon with cotton. Do I understand that in the Department of Agriculture, as a result of their investigations, it is contended by that Department that rayon competes in any direct sense with cotton? Because, as one who has been in the textile business a great many years before I resigned and came to the Senate, I assure the distinguished Senator from South Carolina that rayon actually competes with silk, and not with cotton.

Mr. BYRNES. Mr. President, the difficulty is that it is impossible to find a manufacturer of cotton in the United States of America who would agree with the Senator from New Jersey as to that.

Mr. BARBOUR. With all due respect, I say that that is not a correct statement.

Mr. BYRNES. The manufacturers of cotton have more than once appealed to the Department of Agriculture to levy a compensatory tax upon rayon because of the belief that rayon has competed with cotton and has done great injury to the cotton manufacturers.

Mr. BARBOUR. Mr. President, I do not desire to pursue the subject too far; but I can assure the Senator that in many instances—and I know it is an unwitting mistake—the Senator's statement is not correct.

Mr. BYRNES. I know that there is a difference of opinion; that every man interested in rayon has contended that it does not compete with cotton, and that every manufacturer of cotton in South Carolina—and I think I know them all—takes the other view. If the Senator from New Jersey should undertake to convince them that rayon does not compete with cotton, he would have a splendid time for the rest of his natural life in that endeavor; and I assume that the rayon manufacturers are just as strong in their position. That matter has been discussed in the Department, and they have had hearings consuming days. Lawyers have represented the rayon interests; the cotton manufacturers have appeared; and they became dissatisfied because the tax was not levied, and attribute much of their trouble to the failure of the Department to levy it.

Mr. BARBOUR. As I have said, Mr. President, I do not want to pursue this question too persistently; so let me

conclude, if I may, by saying that I am correct to this extent: The company with which I was connected for 25 years before I came to the Senate uses a great deal of cotton and it uses no rayon and uses no silk. We know, from experience in our own case, that rayon competes with silk and not with cotton, except in a very remote, theoretical degree. I will admit, however, in the final sense, so to speak, it can be said that all textiles compete with one another.

Mr. GLASS. Mr. President, rayon competes with cotton only in the same sense that cotton competes with any wearing textile.

Mr. BARBOUR. That is what I say; in a remote or theoretical sense it can, of course, be said that any textile may be considered as competing with any other textile. But in the sense that I take it, we are all viewing competition in this whole general connection; rayon certainly competes with silk and not in the same sense at all with cotton.

Mr. WAGNER. Mr. President—

Mr. BYRNES. I yield to the Senator from New York.

Mr. WAGNER. I desire to ask the Senator a question which may somewhat clarify the situation. It is true, is it not, that under the present law the Agricultural Adjustment Administration has power to impose a compensatory tax in the event it is satisfied that there is competition existing between the basic commodity and the other commodity, namely, rayon?

Mr. BYRNES. Mr. President, I prefaced my remarks by making the statement, first, that that was the existing law, and that the compensatory tax could be levied only where it could be proved to the satisfaction of the administrator that there was an excessive shifting of the purchasing power to the other commodity.

Mr. WAGNER. Of course, Mr. President—

Mr. BYRNES. As I understand, there is a time limit on speeches, and my 15 minutes is liable to be exhausted in answering the questions of Senators, without my ever being able to explain the difference between these amendments.

Mr. WAGNER. The Senator may have my time.

Mr. BYRNES. The committee amendment provides for a tax upon rayon, but by its terms it limits that tax to what, for lack of a better word, I call the "lower grades" of rayon. The rayon producers believe this would be difficult for them to handle, because it would cause some of the grades of rayon now selling cheaply, by reason of the processing tax, to demand a higher price than the finer grades of rayon.

The VICE PRESIDENT. The time of the Senator from South Carolina on the amendment has expired.

Mr. BYRNES. Mr. President, I desire to speak on the bill.

Mr. COPELAND. Mr. President, I may say to the Senator that I intended to give him my time in which to answer.

Mr. BYRNES. I thank the Senator from New York.

Mr. COPELAND. While I am on my feet I should like to say that I think the wise thing for those of us whose constituents are interested in the rayon business is to accept this amendment. Then we can fight out the matter on the general question of whether or not we are going to have anything on the subject in the bill. So I am sympathetic with what the Senator is trying to do.

Mr. BYRNES. Mr. President, I desired to submit that suggestion to the Senate later; but at this time I wish to proceed with my remarks.

The rayon producers, very wisely, in my opinion, have considered that it would be difficult to adjust their business to the provisions of this measure; and what they would prefer is to have a flat rate, such as is provided in the amendment, because it would be easy for the manufacturers to adjust their business to the flat rate.

Mr. BYRD. Mr. President—

Mr. BYRNES. I am sorry I cannot yield. My time was exhausted on the amendment, and I now have no time except upon the bill.

Mr. BYRD. The Senator has 30 minutes on the bill.

Mr. BYRNES. The rayon producers state that unless there is a tax levied upon silk they would be injured, and I

agree with them; and, because I agree with them, my amendment provides for a tax upon silk which would be equivalent to the tax which is levied upon rayon, and, so far as the rayon producers are concerned, would preserve their status as to competition with silk. They further state that imposing the tax as provided in the amendment, amounting to 125 percent above the rate upon cotton, would create uncertainty in the business; that the consumer of rayon goods would hesitate to purchase at this time, believing that 6 months or 3 months later there might be a reduction of the processing tax upon cotton, and, as a result, a reduction in the processing tax upon rayon; that it would have a tendency to cause small purchases, hand-to-mouth buying, and thereby injure their business. They believe that the levy of the flat rate provided in this amendment—not based upon any fluctuating tax upon cotton—would protect their interests so long as the same character of tax is levied upon silk, their chief competitor.

Mr. BARBOUR. Mr. President—

Mr. BYRNES. So this amendment seeks to accomplish that objective. In doing so, necessarily the so-called "experts" upon these matters have had to include many technical phrases. The phrases which are contained in the amendment are the trade language and the trade definitions. I should like to explain some of them.

Mr. BARBOUR. Mr. President, will the Senator yield, in my time, just for a question?

Mr. BYRNES. Very well. Then I will yield to the Senator from Virginia [Mr. BYRD].

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Jersey?

Mr. BYRNES. I do.

Mr. BARBOUR. The Senator spoke about including silk within the purview of this amendment.

Mr. BYRNES. It is included.

Mr. BARBOUR. The Senator included it because he felt it was fair in respect to what he wishes to do in connection with rayon?

Mr. BYRNES. I think so.

Mr. BARBOUR. Was anybody in the silk industry consulted?

Mr. BYRNES. No. I think I was unfortunate in making the statement that as to these technical phrases the experts of the Department permitted a representative of the rayon industry to discuss with them these trade definitions, because my language has been construed as referring to a conference to which consumers should have been invited, and to which all manner of competitors should have been invited. I regret greatly that I mentioned it. I mentioned it only to explain the presence in the amendment offered by me of technical phrases, with which I knew Senators would know I was not familiar and could not possibly be familiar.

Mr. BARBOUR. Mr. President, assuming that I am consuming my own time, and not that of the distinguished Senator from South Carolina, I simply desire to make clear to the Senate that so far as I know—and I think I speak for one of the largest silk-producing centers and States in the United States—no one had any knowledge at all that this amendment was going to be forthcoming, except, as the Senator says, that it has been printed and was on the desks of Senators for the first time this morning. I do not know how many Senators saw it. I certainly did not.

Mr. BYRNES. I cannot say of my own knowledge that anyone engaged in the business knew this; but I do say that I am informed that those who are chiefly interested in the matter, the Japanese interests, have been better advised, then, than have Members of the Senate, because they have been advised; they have discussed it with officials of the Department, and have been exceedingly active in that connection.

Mr. BARBOUR. I am not speaking in terms of the interests of the Japanese. I am speaking in terms of the interests of the American manufacturers.

Mr. BYRNES. I am saying that I know the Japanese interests have been advised of it, and I know that on the floor of the Senate I have heard it said for several days that

in case rayon should be included in the processing-tax section, silk should be included, and I believe it should be.

Mr. BARBOUR. The Senator and the Japanese may agree, but I do not.

Mr. BYRNES. The Senator from New Jersey is not going to agree with me in any respect about anything connected with this amendment, and I will announce that understanding now. [Laughter.] Just on that line, I am handed an amendment which has been pending for many days, presented by the Senator from Alabama [Mr. BANKHEAD], which proposes to include silk; and I think there is one other amendment here which proposes to include silk.

Mr. BYRD. Mr. President, in my own time, may I ask a question of the Senator?

Mr. BYRNES. I yield to the Senator from Virginia.

Mr. BYRD. The Senator from South Carolina stated that the representatives of the rayon industry—

Mr. BYRNES. I said one representative, and some other gentlemen I did not know.

Mr. BYRD. One representative had agreed to this amendment, providing that if any taxation is placed upon rayon—

Mr. BYRNES. No, Mr. President; I corrected the Senator before.

Mr. BYRD. In other words, they prefer this amendment to the one in the bill?

Mr. BYRNES. That is what I have said.

Mr. BYRD. Mr. President, this is a very complicated amendment. It so happens that Virginia produces one-half of the rayon produced in America. We have five large plants. The manufacturers of my State have not advised me that they are willing to accept this amendment in the event that any tax is imposed as provided by the bill. I desire to ask the Senator from South Carolina if it would not be agreeable to defer the presentation of the amendment until I may consult the manufacturers of my State.

Mr. BYRNES. I have already stated to the senior Senator from Virginia [Mr. GLASS] that it will be entirely satisfactory to me to do that, provided the chairman of the committee, in charge of the bill, has no objection. It is satisfactory to me.

Mr. BYRD. How much time, then, shall I have?

Mr. BYRNES. The Senator from Virginia knows that as well as I do, because I have not consulted the Senator in charge of the bill. I am occupying the floor. If the Senator consults him, I am satisfied to have that course taken.

Mr. BYRD. I simply wish to confirm what the Senator has said as to the amendment meeting with the approval of the manufacturers of Virginia.

Mr. BYRNES. I repeat, I have not made that statement, and I would not want the Senator to be under that impression. The only statement made to me was that the representatives of the rayon industry who were in conference said that they would much prefer this amendment, which levies a tax upon silk at a flat rate, to the language of the bill.

Mr. BYRD. That was only one representative?

Mr. BYRNES. Yes.

Mr. BYRD. There is no intention on the part of the Senator to press for immediate consideration?

Mr. BYRNES. I have said that I do not intend to do so, and it will be entirely satisfactory to me to let the amendment go over.

Mr. WAGNER. Mr. President, will the Senator yield to me in my time?

Mr. BYRNES. I yield; I am collecting a lot of time.

Mr. WAGNER. The Senator can have my time, because I want to have this matter made perfectly clear.

The Senator is asking us now to accept an amendment imposing a tax upon an industry which represents an investment of \$250,000,000, at least, and employs about 200,000 men, without giving that industry, before the committee originally or since, except as to one representative, a chance even to be heard upon the imposition of the tax. I think that is an extraordinary situation. I have never known such a one to exist before in this body.

Mr. BYRNES. Mr. President, that is a most extraordinary statement of the Senator; evidently he has not been following the subject. The question of a tax upon rayon was heard before the committee. It was presented in the committee report, in any event.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BYRNES. I yield.

Mr. WAGNER. The chairman of the committee, the Senator from South Carolina, and the Senator from Alabama conceded to me upon the floor that the rayon industry had not been heard before the committee, and that this amendment was agreed to by the committee without giving that large industry even a chance to be heard as to whether the tax proposed was just or unjust.

Mr. BYRNES. If that be the fact, then my statement was erroneous.

Mr. WAGNER. I have followed the matter closer than the Senator thought.

Mr. BYRNES. If the Senator will permit me, I will show him to what I had reference. I am not a member of the committee, and I assumed there had been some hearing and some consideration. But I think a most extraordinary attitude is taken by those who say they are interested in the rayon industry, when they have before them a bill which provides for a tax upon rayon and no tax upon silk, which is the committee amendment, a tax upon rayon which is unsatisfactory to the rayon producers.

The amendment I have offered is a substitute for the committee amendment, and provides for a tax upon rayon, a tax which has been prepared carefully, and which is more satisfactory, I know, to anyone who has studied the question, than is the tax upon rayon proposed by the bill. In addition, with the tax upon silk, it certainly is more acceptable to the rayon producer.

If it were adopted, then the question would come upon the adoption of the committee amendment as amended, and the Senator from New York and any other Senator who feels as he does about it, if not satisfied with the tax upon rayon in connection with the tax upon silk, would have an opportunity to vote against that, with the knowledge that if he lost he would at least have the protection granted by the tax upon silk. If this amendment is not adopted and he votes upon the adoption of the committee amendment without the tax upon silk and loses, then he has no compensatory tax for the competitor who he says is a cheap competitor, the silk manufacturer.

I think it ought to be clear that anyone who is interested in rayon producers, when confronted with the choice of having to vote for the committee amendment without any tax on silk, or my substitute, ought to vote for the substitute, which seeks to protect them. They should vote for this amendment, and then, on the next vote, which will be on the adoption of the committee amendment, they can vote against the entire proposal if they see fit to do so.

Mr. President, I do not wish to consume any more time in detailed explanation of the amendment. Because it is indicated that a number of Senators desire that this amendment go over, instead of consuming the time, I ask permission to have printed in the RECORD a statement that I have which will give a detailed explanation of the various sections of the amendment.

Mr. WHITE. Mr. President, will the Senator yield for a question?

Mr. BYRNES. I yield.

Mr. WHITE. Is the compensatory tax on rayon, proposed in what I will call the Senator's amendment, the same as the tax on rayon carried in the bill? I am disregarding the compensatory tax on silk for the moment.

Mr. BYRNES. No. The tax on rayon in the bill—

Mr. WHITE. Is 125 percent of the cotton tax?

Mr. BYRNES. Yes; and is objected to by the rayon manufacturers for the reason that it is levied only on some grades, which would disturb their entire price structure, and for the further reason that it is based upon 125 percent of the tax levied upon cotton. They fear that if that were

adopted there would be uncertainty in the trade as to what the tax would be, and purchasers would withhold purchases from month to month, hoping that there would be a reduction in the processing tax upon cotton, which would be followed by a reduction in the processing tax upon rayon. They believe that with the certainty of a rate which is the equivalent of the tax now levied upon cotton, and with the knowledge that it will continue so long as there is a tax levied upon cotton, it would be advantageous to their industry.

No one interested in the cotton manufacturing industry desires to hurt the rayon manufacturers, and it is only because I believe it is fair to them, because I am convinced that it is a wise thing to do, that I am offering the amendment.

Mr. WHITE. Let me see if I understand it. The Senator's contention is that the compensatory tax proposed in the committee amendment is an uncertain amount, while the tax proposed by him in the amendment we are now considering is of a definite amount?

Mr. BYRNES. That is exactly the point, and because it is of a definite amount it would be of great advantage to those engaged in the industry, in addition to the further fact I have mentioned, that in the committee amendment the tax is levied only upon certain grades, and the processing tax is levied upon those grades, which necessarily will increase the price, so that they will have to sell for a higher price than grades now selling in the market in excess of those lower grades. That was the other point.

Mr. WAGNER. Mr. President, will the Senator yield to give me some information?

Mr. BYRNES. I yield.

Mr. WAGNER. Under the law as it is now, if there is any commodity which is a competitor with a basic commodity, the Agricultural Adjustment Administration has the right and the power to impose a compensatory tax.

Mr. BYRNES. That is correct, and, as I have said, the position of the cotton industry is that because the requirement is that the proof shall show an excessive shift, the department has been overcautious, because it involves the levying of a tax, and in its interpretation of the word "excessive" it has refrained from levying a tax, even though those charged with the decision were of the opinion that the competition was such as to justify the levying of a tax.

Mr. WAGNER. But compensatory taxes have been levied upon other commodities, have they not, when the Department of Agriculture or the Administration have discovered that there is a competitive condition?

Mr. BYRNES. I know of one instance.

Mr. WAGNER. Why is it that in this case cotton is picked out to be treated in a method different from that applied to every other basic commodity under the Adjustment Act?

Mr. BYRNES. I do not know as to what other commodities there have been hearings and where the question has been raised. In respect to that I know only what I have heretofore stated; that the cotton industry of New England and of the South, according to every manufacturer from whom I have heard during the last year, has contended in the hearings that, because of the interpretation placed upon the word "excessive" in connection with the shifting, the tax has not been levied; and that rayon, certainly of the lower grades, has been doing great injury and great harm to the cotton industry. I know that is a most controversial point; there is no question about it being so.

The purpose of my amendment, and what I hope to do, is to perfect the committee amendment.

Mr. WAGNER. I rather take the view of the Senator from Virginia that if there is no justification under the A. A. A. for imposing this tax, we are simply adding a burden on the consumers of the country.

Does it not amount to this, that we are asked to impose this compensatory tax because the Agricultural Adjustment Administration has refused to impose a tax, after a hearing lasting a year, where all of the facts were presented? Indeed, without any knowledge of the subject, without any hearing before a committee, we are asked to substitute our judgment, blindfolded, as it were, because we cannot know the subject,

for the judgment of the Agricultural Adjustment Administration, and impose this tax.

I think we ought to stand by the law as it now is. Then if, after a proper hearing, where all the facts are presented to the Agricultural Adjustment Administration, they are satisfied that there is a competitive condition which requires a compensatory tax, then it ought to be imposed; but I do not think we ought to be asked to act blindly in this way and impose a tax upon the consumers of the country when there may not be any justification for it.

Mr. BYRNES. I do not think it could be said that we would be acting blindly. I think the Senator knows just as well as I do that rayon is a competitor of the finer grades of cotton goods.

Mr. WAGNER. No; I have been examining the records and the statistics, and I think the Senator is mistaken about that.

Mr. BYRNES. Then the Senator and I cannot agree on that point. All the evidence which has been presented to me by the manufacturers of cotton is to the contrary. They may be wrong. I have been convinced, however, that they are right; and, therefore, I do not think that by reason of the attitude of the Department and its interpretation of the burden of proof which is required in order to establish excessive shifting the cotton manufacturer should be denied the relief which would be granted by levying an equivalent tax on rayon.

Mr. President, I ask unanimous consent to have inserted in the RECORD at this point a short statement in explanation of the pending amendment.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The statement is as follows:

DISCUSSION OF PROPOSED SECTION 15 OF H. R. 8492, AMENDING SECTION 9 OF THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

The significant differences are as follows: The amendment as reported out by the Senate committee imposed a tax on rayon at the rate of 125 percent of the cotton-processing tax rate which at present would be 5.25 cents per pound. The difference between a rate of 5.25 cents per pound on rayon and the rate of 4.2 cents per pound net weight of cotton is an allowance for waste occurring in the production of cotton yarn. In other words, a rate of 5.25 cents per pound on rayon yarn is essentially the same as the amount of tax paid on the amount of raw cotton required in the manufacture of a pound of cotton yarn of the type most nearly comparable to rayon yarn. In this amendment the rate of tax on rayon is rounded to 5 cents per pound and is not to be altered on the basis of variations in the cotton-processing tax rate.

In both drafts of subsection (g) the rayon tax was to be measured by the yield in pounds of rayon or other synthetic yarn suitable for commercial winding. By the Senate committee draft, however, the tax would be confined to the coarser rayon yarns, and the finer rayon yarns would be exempted from the tax. The coarser rayon yarns as defined in the Senate committee draft would include about two-thirds to three-fourths of all the rayon yarn produced, and would include those sizes of rayon yarns which may be considered as being most highly competitive with cotton, although there is no definite line of demarcation between that rayon which is competitive with cotton and that which is competitive with silk. The amendment would tax all rayon yarns. If silk is to be taxed, obviously all sizes of rayon yarns should be taxed.

Paragraph 3, subsection (g), of the attached proposed draft of section 15 lists the synthetic products and byproducts which would not be subject to the processing tax on rayon. Rayon and other synthetic fiber waste would include waste occurring in the production of rayon and in the production of rayon products. Staple fiber is rayon filaments which have been cut up into uniform lengths, usually less than 2 inches, and is used in manufacturing spun rayon, which in turn is used largely in conjunction with or in substitution for woolen and worsted yarns. Ropes are the filaments from which staple fiber is produced. Monofilaments include such products as artificial horsehair and artificial straw, which are used in the millinery trade and which apparently do not compete with cotton.

Subsection (h) of section 15 would impose an import tax on silk and silk products to compensate for the tax on rayon. The proposed rate of tax on raw silk with sericin content or gum content in excess of 15 percent is 10 cents per pound. This is twice the rate on rayon and takes into consideration the fact that a pound of silk will go farther than a pound of rayon in producing cloth and textile articles. For example, a hundred yards of a given rayon fabric might weigh 20 pounds, whereas a competing silk fabric, before being degummed, loaded, or weighted with tin, might only weigh 10 pounds per 100 yards.

On raw silk with a sericin or gum content of 15 percent or less, and upon thread yarns and fabrics the proposed rate of tax is 12 cents per pound, standard weight of silk. Nearly all of the raw

silk coming into the United States has a sericin or gum content in excess of 15 percent. A higher rate of tax on silk having a sericin content of 15 percent or less would tend to prevent removal of part of the sericin before importation as a means of minimizing tax payments. By fixing the rate of tax on yarns, threads, and fabrics as provided in the amendment it would be possible to eliminate most of the complexities and uncertainties that would be met in formulating regulations and conversion factors for silk products. In manufacturing silk the gum content is removed and loading or weighting is added. The amount of this loading or weighting may vary from a negligible percentage up to 100 or 150 percent of the original weight of raw silk. Figures are not available as to the average amount of weighting, but in the case of silk products imported from Japan it is said to be low. Since the average gum content is around 20 percent, the removal of all the gum and the failure to add any weighting or loading would make necessary a compensatory tax from this factor of 12.5 cents per pound on fabric in order to fully compensate 10 cents per pound on raw silk. In addition there is some loss in manufacture up to the cloth stage. The proposed rate of 12 cents per pound on yarns, threads, and fabrics would be slightly low for such products if they contain little or no weighting. In the case of heavily loaded fabrics, however, a tax at the rate of 12 cents per pound would be somewhat greater than the amount of tax that would be paid on raw silk required in their manufacture. While there would be some slight inequities, it appears that a rate of 12 cents per pound would be a reasonable average.

Because of cutting losses in manufacturing garments and other fabricated products a compensating rate of tax at the rate of 15 cents per pound is suggested for these products.

By making a compensating tax on silk and silk products apply at the time of importation rather than at the time of the first domestic processing, the collection of the tax would be greatly simplified.

No tax will be imposed under subsection (h) on silk waste defined in paragraph 4 as pierced cocoons, frisons, and other silk waste. Pierced cocoons are damaged, unwindable cocoons, which are considered as waste. Frisons are brushings or tangled, unwindable silk filaments, considered as waste.

Subsection (i) specifies the rates at which refund payments would be made on silk and silk products exported from the United States or delivered to an organization for charitable distribution or use. These payments would be made on any such articles exported or delivered to organizations for charitable distribution or use after the effective date of this amendment, even though a compensatory import tax had not been paid thereon. This would avoid the confusion which would be involved in determining at the time of exportation or delivery to such an organization whether a tax had been actually paid with respect to a particular product. In the absence of the provisions of subsection (i), it would be several months after the effective date of the compensatory import tax on silk before all or the major part of the silk products exported or delivered to a charitable organization would be subject to refund payments. During this long period of adjustment some articles would be subject to refund payments and others would not. The rates of refund payments provided for in subsection (i) are the same as the rates of compensatory import taxes imposed by subsection (h).

The proposed subsection (j) contains general provisions that are consistent with the compensatory tax aspects of the proposed amendment.

The most important of these general provisions are as follows:

It is provided that no adjustment be made in the rates of tax on rayon and silk and silk products irrespective of any changes that may be made in the rate of tax on cotton except that when the cotton tax is wholly terminated the taxes on rayon and silk will terminate also.

It is also provided that in the event that the tax on either rayon or silk or the general provisions of subsection (j) become inoperative the taxes on both rayon and silk and silk products will cease simultaneously.

The general provisions contain definitions applicable to the weight of rayon and silk which are in conformity with trade practice and would therefore appear to be beneficial in the administration of the proposed taxes.

In connection with the definition of standard weight of rayon it might be noted that the synthetic products of cellulose base are those which are produced by the viscose and the cuprammonium processes of rayon manufacture. Synthetic products of a cellulose ester base are those made by the cellulose acetate process of rayon manufacture.

The proposed amendments appear to be satisfactory as compensatory tax provisions applicable to rayon and silk. The benefits of simplicity obtained by fixing the rates of tax on semimanufactured and manufactured silk products should greatly outweigh the benefits of more precise equivalents that could be arrived at only through cumbersome and complex conversion factors. In this connection it should be kept in mind that for commodities of high value, such as silk and its products, variations of a fraction of a cent in the rate of tax would have little importance from the standpoint of protecting cotton or rayon or influencing the course of trade in silk products. Therefore, it is highly desirable that impractical refinements be eliminated for the sake of simplicity and certainty.

Mr. GLASS. Mr. President, I am indebted to the Senator from South Carolina [Mr. BYRNES] for agreeing to let this particular amendment go over. The more I have heard him

speak on the subject the more nonplused I have become. Of course, South Carolina is a great cotton-manufacturing State. Virginia also is to some extent. I think we have in Virginia the largest cotton mill in the world.

It was not my purpose to imply that the Senator from South Carolina had not very clearly stated the case from his point of view; but what puzzles me is that I have not heard from a single cotton mill in Virginia, and, as I said, I think we have in Virginia the largest cotton mill in the world. I have not received from them a single communication on this subject. There has been no complaint whatsoever that rayon is in competition with their product; and if such competition is so clearly established, it seems almost incredible that the Virginia cotton mills should not have communicated with either one of the Virginia Senators about a problem which so greatly interests them.

For that reason I am obliged to the Senator from South Carolina [Mr. BYRNES] for letting the amendment go over until we may make some inquiry about it.

Mr. SMITH. Mr. President, of course, the bill came to us from the House. In the Senate committee we had no communication from the Department on this subject, and, so far as I know, the House had no communication from the Department. However, prior to the time the bill came over from the House there was complaint as to the encroachments of certain rayon manufactured goods upon the marketing of certain cotton goods. When the parties interested—namely, the cotton manufacturers—made that complaint, it was suggested to them that they prepare an amendment which in their opinion would meet the situation. They did so, and that was the one which was presented to the committee and was adopted by the committee. To what actual extent articles composed of rayon affect the cotton market I have no way of knowing, except through the complaint of the cotton manufacturers.

When the amendment was adopted by the Senate committee and the bill was reported to the Senate, certain of those interested in rayon appeared; and, as the result seems to be, they, in conjunction with certain cotton manufacturers, have prepared the substitute amendment which my colleague has here presented.

There is language in the original text of the bill which I desire to call to the attention of the Senate. It has been referred to; but, after reading it, I cannot understand why the Department of Agriculture has not availed itself of the complaints of the cotton manufacturers and ascertained what are the facts.

I desire to read the provision to which I refer. It is found on page 21 of the compilation of the Agricultural Adjustment Act, as amended, as of June 29, 1934. It reads as follows:

The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing, or will cause, to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition.

As I see it, that is an ample provision, and under it if there is a question as to competition existing to the disadvantage of the taxed article, or it is likely to exist to the disadvantage of the taxed article, then, after due hearing and the ascertainment of the facts, if the Secretary finds that this menace exists, or is likely to exist, he shall put a compensating tax on the competing article to the point where the disadvantage will disappear.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McKELLAR. Is it not true that the Department of Agriculture has held hearings in accordance with the provisions of this act, and has certified that there is no competition in this instance, and has refused to impose the tax provided for in the amendment?

Mr. SMITH. Mr. President, I think the real fact is that the relation to cotton of rayon and rayon yarns and the

commodities into which they are converted is so complex, and there are so many uses to which the rayon and rayon yarns are put, that I do not think it really could be decided definitely whether they were invading the domain of cotton or whether they were competing with silk.

Mr. McKELLAR. Has the Department acted in this matter? I have not been advised, and I ask the Senator whether he has been advised on that point?

Mr. SMITH. The Department has not acted in this matter.

Mr. McKELLAR. They were instructed to act in the matter, and undoubtedly they held hearings; and if they have not acted, it seems to me the present law is complete in that behalf; so I see no reason for an amendment of any kind.

Mr. SMITH. As I stated, the cotton interests have complained, and complained bitterly.

Mr. McKELLAR. They had a forum to which they could go. They have gone before the Department of Agriculture, and evidently the Department of Agriculture has not sustained them. After leaving it to the hearing and decision of the Department of Agriculture, and the Department not having imposed the tax, why, in that situation, should the Congress step in and impose a tax, anyway?

Mr. SMITH. There is an implication in the complaint of the cotton manufacturers that they have not been fairly dealt with by the Department.

Mr. McKELLAR. Was there testimony to that effect before the Senate committee?

Mr. SMITH. The committee did not hold a hearing on this matter. The committee members have received communications upon the subject, as have, perhaps, the Senator from Tennessee and other Senators. The complaint has continued for more than a year.

Just to what extent the Department of Agriculture went into the matter, and to what extent they thought the complaint was justified or not justified, I am not in a position to state. However, I was amazed when the cotton manufacturers said that nothing had been done, when they complained so bitterly about the competition and brought to my attention certain articles and compared those which were made out of cotton with those which were made out of rayon, and showed how the price of rayon was now under the selling price of cotton with respect to articles used for the same purpose, being certain articles of clothing and underclothing. They said: "We pay a tax, and by reason of that tax we are excluded from the market which has been entered by rayon, which does not pay a tax." I asked if they had applied for a compensatory tax, and they said they had.

Mr. McKELLAR. Mr. President, I may say, as the Senator from Virginia [Mr. GLASS] said a few minutes ago, that there are a great many cotton mills in my State, and I have not received a communication from a single cotton mill complaining that they were being discriminated against in this matter. On the other hand, there are a number of rayon mills in my State, and they are complaining very greatly because of the proposed tax, for they say they are not in competition with cotton, but are in competition with silk.

Mr. SMITH. Personally I have had quite a number of complaints from cotton mills located not only in my State but in other States that the competition is very severe. One manufacturer, I remember, came in and showed me the articles to which I have just referred.

Mr. McKELLAR. Mr. President, I call the Senator's attention to the further fact as to cotton linters, which is, of course, a form of cotton, and quite a valuable form, as it now turns out, that 15 percent of all the cotton linters, or about 75,000,000 pounds, is used every year in the manufacture of rayon.

That largely has brought about the increased price of linters from about one-half cent a pound to something like 5½ cents a pound. In other words, as it seems to me from the standpoint of the cotton grower, to take away this market for linters might work a very great hardship on the producer of cotton. I hope it will not.

I have made a study of the matter in the last few days, and I believe there is no great degree of competition between cotton and rayon. I expect to vote against the amendment, but if we cannot get that much, manifestly the next best thing is to accept the amendment of the junior Senator from South Carolina [Mr. BYRNES] or something along that line, because in the absence of striking out the committee amendment the next best position for the rayon manufacturers is to accept that amendment with a compensating tax.

Mr. SMITH. I call the Senator's attention to the fact that the use of linters in rayon is of no benefit to the cotton producer at all. That is the short fiber taken off the seed after the farmer has had his lint taken off. When he sells his seed and they are delinted by the oil mills, that is something which goes to the benefit of the mills and not to the benefit of the farmer.

Mr. McKELLAR. I regret to have to differ in any form with such high authority on cotton as is the Senator from South Carolina, but in my section of the country the cash crop of the colored people is the seed cotton. The increased price of linters has largely influenced the increased price of cottonseed. Just 2 or 3 years ago cottonseed sold on the market for something like \$11 a ton. Today it is selling for more than \$40 a ton. It seems to me we ought not to do anything to destroy or to endanger the market for linters and for cottonseed, which is of very great importance to our section of the country, as the Senator knows.

Mr. SMITH. The price of the seed resulted from the extremely low production of cotton. Only 9,000,000 bales were produced, as against 15,000,000 bales previously.

Mr. McKELLAR. That is one of the factors.

Mr. SMITH. Some of the seed buyers will deduct from the seed in proportion as they seem not to be closely ginned, for the reason that they say they have to go through a double ginning on a very fine machine which takes the lint from the seed. In any event, I have never known the seed to be influenced in the slightest degree by the linters that are on them, because the quantity of linters depends upon whether or not the breast of the gin is open or shut. Some gins gin very closely and others gin not so closely, but the price of the seed has nothing to do with the amount of linters on the seed.

Mr. McKELLAR. Under the old philosophy that "the proof of the pudding is in the eating" we know that linters have gone up in price with seed. Cottonseed has increased more than four times and linters have increased a little more than that. They go up and down together.

The VICE PRESIDENT. The time of the Senator from South Carolina on the amendment has expired.

SOCIAL SECURITY—CONFERENCE REPORT

Mr. HARRISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 28, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69, 71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: " : Provided, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937 by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is

prevented by its Constitution from providing such financial participation"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: "welfare services (hereinafter in this section referred to as 'child-welfare services') for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" and a comma; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "EIGHT"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "eight"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"APPROPRIATION

"SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the condition in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"STATE PLANS FOR AID TO THE BLIND

"SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under

the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

"(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

"(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

"(2) Any citizenship requirement which excludes any citizen of the United States."

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments: On page 24 of the Senate engrossed amendments, line 19, strike out "permanently", and on page 25 of the Senate engrossed amendments, line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"DEFINITION

"SEC. 1006. When used in this title the term 'aid to the blind' means money payments to blind individuals."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "XI"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1101"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1102"; and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1103"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1104"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1105"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, Jr.,

Managers on the part of the Senate.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,

Managers on the part of the House.

Mr. McNARY. Mr. President, I think it would be quite worth while and informative if the Senator would discuss the conference report.

Mr. HARRISON. Mr. President, I was about to make a statement with reference to it. The conferees on the social-security bill have reached an agreement on all differences except the so-called "Clark and Black amendments." The Black amendment went with the Clark amendment—providing for continuation of private pension plans. The conferees were unable to agree on that matter.

The conferees met many times, I think having more than a dozen meetings. Throughout the Senate conferees tried to carry out the wishes of the Senate as required by the record vote on the so-called "Clark amendment." The House conferees were adamant as to the Clark amendment, though

they were able to agree on all the other differences between the House and the Senate. As soon as this part of the report shall be adopted, as I hope it may be, I expect to ask that the Senate further insist upon the so-called "Clark and Black amendments" and that a further conference be had with the House on those matters.

I may say in that connection, however, that when the House conferees reported today the report was overwhelmingly adopted and the House disagreed to the Clark amendment by a vote of 269 to 77.

There were several amendments of some importance on which we were able to agree. The so-called "Russell amendment", for instance, which was designed to take care of those States which, because of constitutional inhibitions, would be unable to participate in the matter of old-age assistance, was modified to some extent, but will carry out the general purposes of the original amendment, in that the States may participate without appropriations of funds by the State. The aggregate of amounts the political subdivisions of each State put up for old-age assistance plans will be matched by the Federal Government, just as if the State were financially participating. The objective of the Russell amendment was thus achieved in substance, and the House has agreed to it.

The House receded on the so-called "La Follette amendment", on which the sentiment of the Senate was practically unanimous. That was an amendment giving the option to States to adopt various plans with reference to unemployment insurance, whether the pool system or the separate reserve system, and permitting additional credit against the Federal tax where State contributions are reduced because of stabilization. The wishes of the Senate prevailed in that matter.

Mr. WALSH. Mr. President—

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Massachusetts?

Mr. HARRISON. I do.

Mr. WALSH. May I ask the Senator what was done about the amendment in which I was interested, which was proposed and adopted when the bill was before the Senate, relating to noninterference by Federal officials with parental control of children?

Mr. HARRISON. That was taken care of. The House receded on part of the Senator's amendment, and the Senate receded on the other part. Of course, the Senator will recall that we invited him before the conference committee to explain the amendment, and I think the wishes of the Senate largely prevailed in that matter.

The Senator from South Dakota [Mr. NORBECK] had an amendment with reference to pensions for Indians. I may say that the Senate conferees fought valiantly in behalf of the amendment offered by the Senator from South Dakota, but our wishes did not prevail, and at the very last moment the Senate conferees finally yielded on that amendment.

Mr. NORBECK. Mr. President, does the Senator feel that if the Senate should take a definite stand for a pension for Indians the House might go along in regard to it?

Mr. HARRISON. The Senate conferees did take a definite stand.

Mr. NORBECK. No; I mean, if the Senate, by vote of the Senate, should take such a stand, does the Senator feel that that would have any influence on the situation in the House?

Mr. HARRISON. If we were to take a vote now?

Mr. NORBECK. Yes.

Mr. HARRISON. Of course, the Senator is fully cognizant of the rules of the Senate, because he has been here a long time, and has handled many bills. In order to do that, we should have to vote down the entire report; and while I share the sympathy which the Senator has for the Indians, I hope we shall not have to go to the extreme measure of voting down the entire report in order to secure another vote on that one amendment.

Mr. NORBECK. The Senator thinks the Senate amendment would be rejected in the House even if we should do that?

Mr. HARRISON. Yes; I feel sure that there is no way to put the amendment in this bill after what has occurred.

Mr. NORBECK. I very much regret, indeed, the way we treat the Indians, because they are so helpless. Whole families of them have been living on a dollar a week. We have now begun to recognize that we took away their lands from them without just compensation and have passed 80 or 90 statutes providing that they may sue. One statute, affecting a certain tribe of Indians, was passed during the Wilson administration. The case has not as yet been tried; but the House, in handling an appropriation bill last week, put in a proviso that the suits might be started all over again. That is, they provided that different counterclaims might be made, but they did not make any distinction between suits which permitted counterclaims and those which did not. In fact, the representative of the Department of Justice said there were 24 of these cases where the act was broad enough to admit all counterclaims.

I am pleased to say that the Senate Appropriations Committee did not take the view of the House; but we know that the House is going to insist on its proviso. The Senate committee felt that it was legislation on an appropriation bill, and therefore improper. They felt that it was entirely too broad, too unfair in its basis, so the proviso was stricken from the appropriation bill by the Senate committee. Whether or not we are going to yield on that, too, I do not know; but I hope that even the Indians may be given a little consideration. The older Indians, who have lost their hunting grounds and their opportunity to make a living by agriculture, and who are living on reservations that do not produce, have simply been told to starve; and even now in this bill they are simply told, "We shall take care of everybody else but not of the Indians."

I regret that the Senate had to yield on this amendment.

Mr. HARRISON. Mr. President, the Senate conferees were in sympathy with the views of the Senator from South Dakota.

Mr. LA FOLLETTE. Mr. President, will the Senator from Mississippi yield?

Mr. HARRISON. I yield.

Mr. LA FOLLETTE. I should like to say, for the benefit of the Senator from South Dakota, that as one of the Senate conferees I was very much interested in his amendment. My interest was not only because of the fact that the Senator from South Dakota had sponsored the amendment, but because as a member of the Senate Committee on Indian Affairs I was somewhat familiar with the problem which the Senator's amendment tried to reach; and I was very much in sympathy with its objective.

I desire to say, in support of what the chairman of the Senate conferees has had to say, that it is my opinion that we could not prevail upon the House conferees to accept that amendment even if we should vote down the conference report and have another conference. The House conferees were absolutely adamant upon the subject. I also desire to assure the Senator from South Dakota that I shall be glad, as one Member of the Senate, to help him in attempting to have this matter taken care of in a separate piece of legislation.

Mr. NORBECK. I thank the Senator.

Mr. HARRISON. Mr. President, there are just two other matters I wish to mention which were in difference between the two Houses.

One of these was whether the Social Security Board should be an independent agency or under the Department of Labor. It will be recalled that the Senate placed it under the Department of Labor. The Senate was forced to yield on that matter.

As to the other matter, the amendment to take care of the blind, the Senate's views on that subject prevailed, with an amendment.

I shall be glad to answer any further questions in regard to the conference report.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives on certain amendments in disagreement, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
July 17, 1935.

Resolved, That the House insist upon its disagreement to the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. HARRISON. Mr. President, on the four or five amendments still in disagreement, I move that the Senate insist upon its amendments and ask for a further conference with the House, and that the Chair appoint the conferees on the part of the Senate.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi.

The motion was agreed to; and the Vice President appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate at the further conference with the House of Representatives.

Mr. CONNALLY. Mr. President, is it the purpose of the conferees to have a vote in the Senate on the Clark amendment?

Mr. HARRISON. That amendment has gone back to conference.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. COPELAND. Mr. President, I desire to say just a word about this amendment.

I am very much distressed over the situation. The rayon people of my State are opposed to any legislation relating to the subject of rayon; but, if there must be legislation on the subject, they prefer the amendment which was offered by the Senator from South Carolina [Mr. BYRNES].

It will be unfortunate for us if we have any division of sentiment in this matter, or division as regards procedure. My own thought is that we might better accept the amendment offered by the Senator from South Carolina, and then do our best to defeat the amendment as amended. There is a difference of opinion here, however, among those of us whose States are interested in the rayon business; and I am only sounding a note of warning, hoping that overnight we may reach some conclusion as to strategy.

Once more, however, I desire to say that so far as I am concerned, I think the best strategy is to accept the amendment of the Senator from South Carolina, and then do the best we can to throw the amendment as amended out of the window.

Mr. WALSH. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. COPELAND. I do.

Mr. WALSH. Does the Senator from New York find any sentiment among the industrialists in his State in favor of levying a processing tax upon rayon because it is an injustice to the cotton industry to have a processing tax on cotton without one on rayon, which is in competition with cotton?

Mr. COPELAND. There is no desire in my State to have any such legislation enacted here.

Mr. WALSH. Is the reason why there is now agitation for a processing tax on rayon because there is such a tax on cotton goods, and because it is not fair to the cotton industry to have a processing tax on cotton without having one on rayon, with which it has to compete?

Mr. COPELAND. Yes.

Mr. WALSH. Very well. Now, the rayon manufacturer asserts, "If you are going to put a processing tax on us, we want one on silk." Is not that true?

Mr. COPELAND. That is true.

Mr. WALSH. "Because it is an injustice to the rayon industry to have a tax on rayon unless there is one on silk."

Mr. COPELAND. That is true.

Mr. WALSH. To what absurdity does such taxing power go? What further proof do we desire to be convinced of the unsoundness of this proposed legislation. If we adopt this measure, we shall be for all time adding new taxes to help remove injustices which processing taxes bring to a particular product upon which such a tax is levied.

Mr. COPELAND. Of course, I am 100 percent with the Senator in what he says.

Mr. NORRIS. Mr. President, will the Senator yield there?

Mr. COPELAND. I yield.

Mr. NORRIS. I am very much impressed by the questions of the Senator from Massachusetts; but we had the same predicament about fruits and canned fruits. We have already established the precedent. This amendment seeks to continue that precedent in uniform fashion throughout the bill. We included fruits and left canned fruits out. Would not that be just the same as leaving one of these products in and the other out, even though they do compete with each other? The Senate has already done that.

Mr. BARBOUR. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. BARBOUR. I should like to ask unanimous consent to strike out on page 49 section 19, beginning in line 19, so as to make the bill conform with an amendment already agreed to, offered by my colleague, the junior Senator from New Jersey [Mr. MOORE], which eliminated from the bill on page 38 the section beginning with line 3, affecting flaxseed.

The VICE PRESIDENT. When that is reached, the Senate will have a chance to vote upon it. Does the Senator ask unanimous consent for the present consideration of the amendment?

Mr. JOHNSON. Mr. President, I should object to unanimous consent, because the Senator from North Dakota [Mr. FRAZIER] called my attention to this, and he has been called out to a committee meeting, and would like to have it await his return.

Mr. BARBOUR. That is perfectly agreeable.

Mr. TYDINGS. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. TYDINGS. In placing a processing tax upon cotton, it is done upon the theory that the producers of cotton are to be benefited by the proceeds of the tax. Why in the world the producers of rayon should be taxed to help the producers of cotton, as the Senator from New York says, is beyond understanding. Certainly rayon is a separate thing from cotton.

I should like to ask the Senator if he knows upon what ground the committee has attempted to tax some product which has nothing to do with cotton in order to pay a particular benefit to the cotton farmers?

Mr. CONNALLY. Mr. President, will the Senator from New York yield to me to answer?

Mr. COPELAND. The Senator from Texas covets the opportunity to make the answer.

Mr. CONNALLY. I do not covet it, but I knew the Senator from New York was not going to answer, and I thought I would answer the question for him.

Let me say to the Senator from Maryland that, as I understand, one of the components of rayon is low-grade cotton, and it is a competitor of cotton. The man who makes the cotton cloth in New York and Massachusetts has to pay the processing tax because he manufactures cotton. The rayon man, on the other hand, pays no processing tax on his rayon.

Mr. TYDINGS. If he had cotton in the rayon, he would certainly pay a processing tax on it.

Mr. CONNALLY. The Senator from South Carolina says he does not.

Mr. TYDINGS. The Senator from South Carolina, with all due respect, must be misinformed on that subject.

Mr. SMITH. No; it was brought out, in the absence of the Senator, if the Senator from New York will allow me, that what they use in the manufacture of rayon is what is

called "linters", and that is not produced when the cotton is ginned for the farmer. It is short lint taken off the seed after the ginning.

Mr. CONNALLY. But it is cotton just the same.

Mr. SMITH. It is cotton, but it is that which does not go into cotton manufacture. It goes into explosives, and it is the base of cellulose, but it does not go into the ordinary manufacture of cotton. Therefore it does not pay any processing tax.

Mr. CONNALLY. Yet it goes into an article which competes with cotton, to wit, rayon.

Mr. TYDINGS. The point I wished to make, and to which I addressed myself, was that we do not tax rayon on the quantity of cotton in the rayon, but we treat the whole rayon as if it were made out of cotton.

Mr. SMITH. I should like to call attention to the act that was passed 2 years ago, which provided:

In the case of cotton, the term "processing" means the spinning, manufacturing, and other processing, except ginning, of cotton, and the term "cotton" shall not include cotton linters.

That is in the act, and, therefore, no processing tax is paid.

Mr. TYDINGS. Mr. President, will the Senator from New York yield further?

Mr. COPELAND. I yield.

Mr. TYDINGS. What I am complaining about is that the amount of cotton in rayon is not taxed. The proposal is to tax the rayon as if it were all cotton.

Mr. SMITH. Mr. President, will the Senator allow me?

Mr. TYDINGS. I yield.

Mr. SMITH. It is not upon the ground that we are taxing rayon for the benefit of cotton; we are taxing rayon because we have taxed cotton; and rayon is competing in the textile market; and the goods made out of rayon are coming in without a tax and taking the place of similar cotton goods which cannot go in on account of the tax.

Mr. TYDINGS. Mr. President, the Senator from South Carolina in his answer has been very frank, and I wish to thank him. In other words, we are not taxing rayon because of the amount of cotton in rayon.

Mr. SMITH. No.

Mr. TYDINGS. We are taxing rayon because having taxed cotton for the benefit of the cotton farmer we cannot afford to have something else which might compete go untaxed, and therefore, though it is in no respect cotton whatsoever, we are to tax that product, not for the benefit of rayon, not for the benefit of anyone connected with the operation of producing rayon, but to take this remote quantity, tax it, and then turn part of that tax back to the cotton farmer. If that is government, and if that is the policy of taxation that is to be introduced in this body, I think the sooner we adjourn and go home and get a good night's sleep and come back and learn how to levy taxes the better off the Nation will be.

Mr. SMITH. Under that doctrine we should have adjourned when the Hamiltonian idea of high protection came in, for we have been taxing with a compensatory tax everything that competes in the market with the thing that has the blessing of the high protective tariff.

Mr. BORAH. In view of the fact that the Jeffersonian party is now in power, why not repeal the Hamiltonian policy?

Mr. SMITH. I will vote "aye."

Mr. BORAH. I know the Senator will, but he will be very much alone. [Laughter.]

Mr. SMITH. Yes; very much alone; that is true.

Mr. TYDINGS. Mr. President, will the Senator from New York yield again?

Mr. COPELAND. I yield.

Mr. TYDINGS. I do not think the analogy of tariff taxes is a good one. The idea of taxing one product for the benefit of another may at times avail to help the other, but basically, as I understand, back of the tariff is the idea of protecting the standards of labor and standards of living generally. In this case, however, there is no effort to protect rayon, which is certainly a commodity indigenous to the

United States. We might at least say, through a compensatory duty, that the purpose back of levying the duty is to protect all of the industries of the United States equally, but in this case the proposal is to tax, for the benefit of cotton, something which has nothing to do with cotton.

Mr. President, I have often heard the farmer complain that he had to sell his goods in the world market, where the tariff does not apply, and pay taxes on everything else that he has to buy; but, lo and behold! at last we have the good old farmer right here in the United States Senate doing the very thing of which he complained. Such is principle.

Mr. ASHURST. Mr. President—

The PRESIDING OFFICER (Mr. HAYDEN in the chair). Does the Senator from Maryland yield to the Senator from Arizona?

Mr. TYDINGS. I yield.

Mr. ASHURST. In the interest of historical accuracy, I wish to say that Thomas Jefferson was a high-tariff man. Read his 16 unanswerable letters urging a high tariff. He was one of the great leaders of the high protective tariff. He was in Washington's Cabinet. We know that Washington was a protectionist. We know that James Madison piloted through the House of Representatives the first tariff bill ever passed in the United States. In its preamble it declared for the protection of infant industries of the United States. When Jefferson became President he appointed the same Madison Secretary of State. Nearly all the protagonists of the high protective tariff in the West used the 16 letters of Thomas Jefferson to prove that he was a protectionist.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. ASHURST. I yield to the Senator from Virginia.

Mr. GLASS. Will not the Senator from Arizona state in that connection the background of those letters? Does the Senator recall the fact that this was then an infant Nation and that the proposal was to protect infant industries in order not to be dependent upon European industries?

Mr. ASHURST. Yes.

Mr. GLASS. Are there any longer any infant industries in this country except rayon?

Mr. ASHURST. Yes; Mr. President, during the depression nearly all of them have been reduced to the status of infants.

Regarding the background, it will be remembered that when James G. Blaine was preparing his book, *Twenty Years in Congress*, America waited with some degree of impatience to read what that brilliant man would say about the tariff, knowing that he was the great champion of a protective-tariff system. He simply wrote that all that could be said and all that ever would be said in behalf of the protective tariff was said in the House of Representatives in 1789 when James Madison piloted through the House the protective-tariff bill. Blaine almost dismisses the subject with those words.

Mr. BORAH. Mr. President, is there now, or has there ever been, any difference between political parties in the United States on the tariff question?

Mr. ASHURST. In theory; no.

Mr. BORAH. In practice, then?

Mr. ASHURST. Yes. Mr. President, for a while our southern brethren followed the leadership of John C. Calhoun, who himself began his public life as a high-tariff advocate.

Mr. GORE. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. GORE. I have just entered the Senate Chamber. Did the Senator state the rates of duties proposed in the first tariff act of 1789?

Mr. ASHURST. The rates varied. There were ad valorem rates and specific duties, if I remember correctly. It has been some years since I have read that law. There was also a preferential allowed to importers who brought goods into the United States in American bottoms, which I heartily approve.

Mr. GORE. But those were regarded as protective rates. Does the Senator think they would be acceptable now?

Mr. ASHURST. Those rates might not be particularly acceptable at this time.

I wish to make the point that in the House of Representatives in 1789 they were protecting the United States against the cheap, forced, slave, and underpaid labor of certain foreign countries. The real reason why I believe in a protective tariff is not because the founder of the Democratic Party believed in it. That is not my real reason for believing in it, but it is a reason. I believe that the United States will not survive as against the cheap, the forced, and the underpaid labor of certain foreign countries. I do not, for example, believe that the mills of New England or of any other industrial State will long survive in competition with the cheap labor of Europe. I know—I do not guess, but I know—that the copper, the manganese, and other enterprises, for example, will not survive as against the cheap, the forced, and the underpaid labor of certain foreign countries, which is paid some 40 or 50 cents a day, and works 12 hours a day. This I say with particular reference to copper producing.

It is useless to resort to our old prejudices and predilections. I came to the Senate a flaming low-tariff man. I stood for years and hurled my delicate, fine, and exquisite porcelain theories against a solid, hard, concrete wall of fact; and it was only my porcelain which was shattered—never the wall of fact. I became tired of throwing porcelain against that adamant wall.

The free-trade, low-tariff idea is the most beautiful, symmetrical theory in the world. Low tariffs will not function in this brass-tack, matter-of-fact, workaday world, if we expect our workmen to live and subsist as becomes the dignity of an American workman.

I beg the Senate's pardon for introducing the tariff question into this subject; but Senators know that the stoutest apostle of a faith is the convert. Whether his zeal arises from a feeling that he should be apologizing for past errors or he is enthused by the light which has come upon him I do not know; but I do know that the stoutest apostle of a doctrine anywhere is a man who has been converted from the opposite side. That is the position I occupy on the tariff.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. HASTINGS. My recollection is that the tariff issue in recent years was raised in about the year 1887. President Cleveland was urged to send a message to the Congress in December 1887 proposing a reduction in the tariff; and to me the curious thing about it is that the real reason for urging it was that the Democratic Party did not know what to do with the surplus which was being created by the tariff rates. It seems to me they had a different condition in 1887 than that which they have today.

I merely desired to call attention to the fact that what brought on in 1887 the effort of the Democrats to reduce the tariff was the fact that they did not know what to do with the surplus. However, I take it that the Democratic Party during the present administration would know what to do with a surplus if they could find one.

Mr. ASHURST. Mr. President, I have no remark to make in answer to the production of the pungent intellect of my friend from Delaware.

Daniel Webster went to Congress from New Hampshire a pronounced free-trader. It is known to every Senator that he became a great protective-tariff champion, a tower of protection in New England, because he found, forsooth, that his constituency could not exist without a protective tariff. John C. Calhoun, educated in Yale or Harvard—I forget which; my friend from South Carolina knows—

Mr. GORE. Yale.

Mr. ASHURST. Calhoun began his public life as a protectionist. He found that his section at that time would be better served by low tariffs or free trade. We draw our opinions—and it is not to our disgrace that we do—and we derive many of our ideas from our environment, from our experience in life, and usually from the sections whence we come. It was natural, proper, and logical that John C. Calhoun should swing over from the position of a high-tariff advocate to that of a low-tariff advocate, a free-trader. It was natural that Daniel Webster—he of the imperial intellect, the expounder of the Constitution, whose voice boomed like a golden bell

hung in the canopy of the skies—it was natural that he should turn from a low-tariff, free-trade man to become a high protective-tariff advocate.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. ASHURST. Certainly. I am always glad to yield to my able friend from Tennessee.

Mr. McKELLAR. With reference to the background, does not the Senator believe, from reading the history of both Calhoun and Webster, that one of the principal reasons for their change was Andrew Jackson, of Tennessee?

Mr. ASHURST. Yes. The able Senator from Tennessee is quite correct. In the old Senate Chamber, which is to be a repository of memorials of past greatness, Jackson and Van Buren sat side by side as Senators. Jackson had not as yet been stung by the Presidential bee. That was probably in 1822 or 1823. Jackson sat side by side with Van Buren, the low-tariff advocate, and their friendship became very close. The circumstance is so well known to history that it is not necessary to descant upon it.

However, they had a serious dispute over the tariff. Van Buren was for low tariff and Jackson for high tariff; and when Clay, great leader of the protective-tariff system, asked Jackson what, in the mind of Clay, was an embarrassing question, how high a tariff ought to be, Jackson replied, "It ought to be a judicious tariff." This answer angered Clay, so that he replied with an oath, "Well, by ———, I am for a tariff, judicious or injudicious."

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. ASHURST. I yield the floor to the able Senator from Tennessee.

Mr. McKELLAR. Mr. President, I should like to make a suggestion. The Senator from Arizona in his historical summary is correct with one exception. He is exactly correct about Mr. Jackson and Mr. Van Buren sitting side by side in the Senate and becoming great friends, which friendship lasted all their lives; but Andrew Jackson came to the Senate in 1822 for the very purpose of furthering his Presidential candidacy.

Mr. ASHURST. Mr. President, I would not presume to question the historical accuracy of the statement of the Senator from Tennessee. I have learned to depend upon the Senator from Tennessee for historical information, particularly with reference to Tennessee. But let me say to the Senator from Tennessee that it was not Tennessee which first proposed Jackson for the Presidency, though doubtless many of his friends in Tennessee thought he would be a good candidate. It was the high protective State of Pennsylvania which first seriously proposed Andrew Jackson for the Presidency.

Mr. McKELLAR. The Senator is entirely correct in that statement.

Mr. GLASS. Mr. President, in the detailed historical recital the Senator from Arizona has omitted to say whether the bee which stung Andrew Jackson was a "queen" bee or some other kind of a bee. [Laughter.]

Mr. President, I am concerned for the reputation of Thomas Jefferson, who was a Virginian. In his maturer life he wrote one sentence which has been more vividly remembered and oftener repeated than anything that was ever written in his so-called "tariff letter", which advocated a species of retaliation against Great Britain. The sentence was this: He declared for "equal rights to every man and special privileges to none." How anybody can get a high protective tariff out of that declaration is beyond my conception.

Moreover, I challenge any Senator here to point to a single platform declaration of the Democratic Party since the end of the Civil War that even so much as squinted at a high protective tariff, except the one in 1928 at Houston. We went from one end of the country to the other in the campaign of 1932 denouncing the Smoot-Hawley bill and declaring for its abrogation or modification. If there ever was a time on the face of God's earth when the Democratic Party had an opportunity to adopt a Democratic tariff bill, it has been since 1932 when it had a two-thirds majority in both Houses of Congress and had the President as well.

Mr. ASHURST. Mr. President, will the Senator grant me a moment to reply to his question?

Mr. GLASS. My question about the queen bee? [Laughter.]

Mr. ASHURST. If I had an hour granted to me I would not make myself so ridiculously presumptive as to attempt to engage in a debate with the able Senator from Virginia [Mr. GLASS] regarding Thomas Jefferson more than to say that what the Senator said is probably true. But after the fever and sensation and heat of the forum had subsided and after he retired from the Presidency, Thomas Jefferson became a contemplative philosopher and no longer an active statesman. No doubt Jefferson, as I hope we all shall do when we reach that stage, became more or less of a philosopher.

Notwithstanding the justly recognized scholarship and learning of the Senator from Virginia, I assert here and elsewhere that during the time when Thomas Jefferson was a responsible statesman, charged with responsibility for the destiny of the young Republic, grasping the nettles of fact daily, he was a protectionist.

Mr. SMITH. Mr. President, I wonder if the Senate recalls the fact that we barely escaped a civil war in 1828 and in 1832, when my State, led by Calhoun, matchless in his logic and interpretation of the Constitution, rebelled against the tariff of 1828. How anyone in this body with the facts of history so tragically written can forget that fact is beyond me. Had it not been for Clay, doubtless at that time we would have been in the war which subsequently came, precipitated by Calhoun's declaration, "You have no constitutional right to do this", namely, to pass a protective tariff. He said, "We might pass a tariff for revenue, but no one can find constitutional authority to pass a tariff for the special benefit of one class as against another class." Hence we had the ordinance of nullification. Subsequently the very same principle precipitated us into a civil war.

Mr. McKELLAR. Mr. President, the Senator from South Carolina said that Mr. Clay prevented that catastrophe at that time. My recollection of history is very different. The man who prevented the catastrophe at that time was again Andrew Jackson.

Mr. SMITH. No. If Andrew Jackson had had his way he would have hanged Calhoun and plunged us into civil war, but Clay came in and through a series of amendments brought about a reduction of tariff over a period of time which would ultimately bring the tariff back to where it would be tolerable.

Mr. BORAH. Mr. President, the series of amendments which Clay offered and which were accepted still left the tariff a protective tariff.

Mr. SMITH. It did leave it a protective tariff, but brought it back to a point where it was not the enormously intolerable thing it was at that time. Of course it was very mild compared to what we have now. As the Senator from Virginia [Mr. GLASS] has said, we wrote our platform denouncing that which unquestionably was one of the causes of the catastrophe into which we have been plunged, and yet here we are, Democrats, so called, and not a word either here or at the other end of the Avenue suggesting that we should carry out the pledges which we solemnly made to the people.

Mr. GLASS. Mr. President, with the exception of myself, the Senator from South Carolina [Mr. SMITH] has the best tariff record of any Democrat in the Senate. That will be attested by the Vice President, who reminded me of the fact a while ago. But now the Senator from South Carolina is departing from the philosophy of Calhoun and is so rabid that he wants to levy a compensating tariff duty to keep rayon from its alleged competition with cotton. [Laughter.]

Mr. SMITH. Mr. President, as chairman of the Committee on Agriculture and Forestry, I am carrying out the edict of my committee and following the example of the distinguished Senator from Virginia who sat right here and swallowed his own words in relation to another bill, or at least turned it over to someone else. I am trying as

loyally as I can to carry out the edict of my committee, but I am not going to vote for any form of protective tariff, not even in this bill.

Mr. GLASS. The Senator from Virginia did not stultify himself on that occasion. He stood here and defended every single, solitary provision of that bill but one, because he believed in every provision of it but one; and when we got to that one provision he voted his convictions.

Mr. SMITH. Yes; and the Senator from South Carolina will do the same thing if the Senator from Virginia will just keep quiet. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Carolina [Mr. BYRNES] to the amendment of the committee.

Mr. BULKLEY. Mr. President, as I understand, the question is on substituting the amendment offered by the Senator from South Carolina for the committee amendment.

The PRESIDING OFFICER. That is correct.

Mr. BULKLEY. That will not incorporate the amendment in the bill?

Mr. SMITH. As I understand the parliamentary situation, Mr. President, my colleague [Mr. BYRNES] has offered a substitute for the Senate committee amendment. That is now pending. I hope we may have a vote on that question.

Mr. BYRD. Mr. President, the author of the amendment has agreed to wait until tomorrow.

Mr. BYRNES. Mr. President, will my colleague yield to me?

Mr. SMITH. I yield.

Mr. BYRNES. In the absence of the senior Senator from South Carolina from the floor, the senior Senator from Virginia [Mr. GLASS], the junior Senator from Virginia [Mr. BYRD], and the senior Senator from New York [Mr. COPENLAND] asked me if it would be agreeable to me to let the amendment to the committee amendment go over until tomorrow. I told them that it would be, but that I could not speak for the chairman of the committee, who was in charge of the bill, and was not on the floor at the time. That is the situation.

Mr. SMITH. Mr. President, all I am asking is that we may make some progress. Senators have made up their minds how they are going to vote on this amendment. They know now how they will vote just as well as they will know tomorrow morning; and if they are like I am, and try to read the technical terms which are employed in connection with rayon, they will know less tomorrow morning than they now know.

If it would aid to reach a conclusion, if I thought any Senator would take these amendments and study them and then govern himself accordingly, whether it would influence him for or against the substitute amendment, I should not hesitate; but I have been here a quarter of a century. I know what all this means.

Mr. McKELLAR. Mr. President, will the Senator yield to enable me to ask a parliamentary question?

Mr. SMITH. Yes.

Mr. McKELLAR. There is before the Senate a committee amendment which many of us are going to vote to reject. The junior Senator from South Carolina [Mr. BYRNES] has offered an amendment in lieu of the committee amendment, as a substitute for it.

The PRESIDING OFFICER. In the nature of a substitute.

Mr. McKELLAR. Naturally, I think the case for rejection would be stronger if we were voting on the committee amendment than if we were voting on the substitute amendment of the Senator from South Carolina. Is there any parliamentary method by which that could be accomplished, whereby the vote would first come on the committee amendment? I do not know whether there is or not, and, therefore, I am asking the Chair.

The PRESIDING OFFICER. Under the rule, the vote must first be taken upon the amendment in the nature of a substitute.

Mr. SMITH. That is what I thought.

The PRESIDING OFFICER. If that should be agreed to, then the committee amendment, as amended, would be voted upon.

Mr. GLASS. Mr. President, I think those of us who represent States largely interested in the manufacture of rayon presented a very reasonable request to the junior Senator from South Carolina in the absence of the senior Senator from South Carolina to whom the request could not then be presented. That request was that this particular amendment go over until tomorrow in order that we might communicate with those who are vitally concerned about this matter, and determine our action upon it.

I do not know this afternoon how I shall vote. I may know tomorrow how I shall vote. I do not wish to delay the bill. God knows I have been sitting around here for 8 days waiting for this bill to be passed in order that I may bring before the Senate a bill with the conduct of which I am charged. I do not wish to delay the matter for a minute; but we presented what I thought was a very reasonable request, and the junior Senator from South Carolina agreed to it.

Mr. SMITH. Mr. President, I did not hear the Senator. I was out of the Chamber at the time he made the explanation. It was the intent of those who desire the delay to communicate with those who are interested. I have no disposition to deny any Senator any opportunity to inform himself about a matter with which he is charged.

Mr. BULKLEY. Mr. President, does the chairman of the committee oppose the pending amendment as a substitute for the committee amendment?

Mr. SMITH. I have not made up my mind about it; but I might just as well declare now as at any other time that I am not going to vote for any measure which has in it the element of a protective tariff. This one has—both of them have—and I will not vote for it. I did not do so before, and I will not do so now; but I am doing my best to discharge my duty to my committee. Individually, I am opposed to it. I have been opposed to it. I refused to vote for the other bill when it had incorporated in it, as part I, a bill which I had favored. I refused to vote for it because had I done so I should have had to vote for the protective-tariff system.

Mr. BULKLEY. Mr. President, I respect the Senator's candor, and I respect his position. What I was leading up to was this: Can we not agree to accept the amendment offered by the junior Senator from South Carolina [Mr. BYRNES] as a substitute for the committee amendment, and then let the vote on the adoption of the committee amendments go over until tomorrow?

Mr. McKELLAR. The Senator from Virginia [Mr. GLASS] does not wish to have that done.

Mr. SMITH. Mr. President, may I have the attention of the Senator from Virginia [Mr. GLASS]?

Mr. GLASS. Yes, sir.

Mr. SMITH. The Senator from Ohio suggested that we act upon the substitute offered by my colleague [Mr. BYRNES], and then let the committee amendment, if it shall be amended, or if the amendment to it shall be voted down, go over until tomorrow. The point was made that the Senator from Virginia and others desire time to investigate and ascertain the attitude of their constituents who are interested in the substitute as well as in the committee amendment. If that is the attitude the Senator takes, I am perfectly willing to have the Senate take a recess at this time.

Mr. McKELLAR. Mr. President, before that is done, would the Senator from South Carolina be willing to depart from the usual parliamentary procedure and vote first on the amendment of the committee; and then, if it should be adopted, vote secondly on the substitute amendment of the Senator from South Carolina [Mr. BYRNES]?

Mr. SMITH. That would be a rather complicated thing to do, because if we should adopt the committee amendment, we should be estopped from voting on the substitute amendment.

Mr. McKELLAR. Not if it were done by unanimous consent.

Mr. WAGNER. Mr. President, will the Senator from South Carolina yield?

Mr. SMITH. Yes.

Mr. WAGNER. I desire to add my request to that made by the senior Senator from Virginia [Mr. GLASS] to have this whole matter go over until tomorrow. The senior Senator from South Carolina was not in the Chamber when his colleague [Mr. BYRNES] offered the amendment and made an explanatory statement with reference to it. Among other things we understood him, at least, to say that the rayon industry generally would prefer the amendment offered by him to the present amendment. Personally, I am opposed to both, and I shall continue to be opposed to both, no matter what attitude the rayon industry may take in the matter, because I think the proposal is an injustice to the consumer; but we desire to inquire to what extent there is unanimity of opinion among the rayon industries of our respective States. I thought that was a rather reasonable request.

Mr. SMITH. That matter has been gone into and explained so far as the chairman of the committee is concerned. It is a matter of absolute indifference to me personally which amendment the Senate takes, or whether it takes either. The Senate may be governed by its judgment in the premises.

Mr. WAGNER. Let us now take a recess.

Mr. SMITH. I was making that proposition when the Senator from New York rose.

Mr. McNARY. Mr. President, is it the desire of the chairman of the committee in charge of the bill that we recess now, or that we have a vote on the rayon substitute?

Mr. SMITH. Under the request made by the Senator from Virginia and the Senator from New York, as they desire to communicate with those who are interested, I think perhaps it would be well to take a recess now, and take up this matter tomorrow.

May I ask the Senator from Arkansas if it would not be a very good idea if we could meet earlier tomorrow?

Mr. ROBINSON. Mr. President, I was just about to suggest that in view of the slow progress that is being made the Senate now take a recess until 11 o'clock a. m. tomorrow. I hope the Senator from Oregon will find it consistent to agree to that.

Mr. McNARY. Mr. President, of course I am anxious to cooperate in the disposition of the bill, but I am informed that some work is set for tomorrow morning, and I think we can get along pretty well if we meet at 12 o'clock.

Mr. ROBINSON. If the Senator indicates he will object, I will not submit a request, but I wish to make the statement that unless more rapid progress shall be made it will be necessary for the Senate to hold longer sessions, and if we cannot meet at 11 o'clock tomorrow morning, it may be necessary to continue in session tomorrow, as well as during the remainder of the week, much later than has been the recent practice.

I wish to add that it seems to me we should cooperate to conclude the consideration of the bill by some hour Friday. Unless we do that, it will probably be necessary to have a session on Saturday. The pending bill has been before the Senate for a long time, the discussion has taken a very broad range, and while a limitation on debate has been agreed upon, the progress that has been made today is rather disappointing; we have not disposed of very many matters.

If the Senator from Oregon wishes to maintain his attitude, I will give notice that the Senate will remain in session tomorrow until a later hour than has been the practice heretofore.

ADDRESS BY GENERAL M'ARTHUR BEFORE RAINBOW DIVISION VETERANS

Mr. SHEPPARD. Mr. President, I ask unanimous consent to have incorporated in the RECORD an address delivered by Gen. Douglas MacArthur, Chief of Staff, United States Army, before national meeting of the Rainbow Division, World War, at Washington, D. C., July 14, 1935.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Mr. President and Gentlemen of the Rainbow Division, I thank you for the warmth of your greeting. It moves me deeply. It was with you I lived my greatest moments. It is of you I have my greatest memories.

It was 17 years ago—those days of old have vanished, tone and tint; they have gone glimmering through the dreams of things that were. Their memory is a land where flowers of wondrous beauty and varied colors spring, watered by tears and coaxed and caressed into fuller bloom by the smiles of yesterday. Refrains no longer rise and fall from that land of used to be. We listen vainly, but with thirsty ear for the witching melody of days that are gone. Ghosts in olive drab and sky blue and German gray pass before our eyes; voices that have stolen away in the echoes from the battlefields no more ring out. The faint, far whisper of forgotten songs no longer floats through the air. Youth, strength, aspirations, struggles, triumphs, despairs, wide winds sweeping, beacons flashing across uncharted depths, movement, vividness, radiance, shadows, faint bugles sounding reveille, far drums beating the long roll, the crash of guns, the rattle of musketry, the still white crosses!

And tonight we are met to remember.

The shadows are lengthening. The division's birthdays are multiplying; we are growing old together. But the story which we commemorate helps us to grow old gracefully. That story is known to all of you. It needs no profuse panegyrics. It is the story of the American soldier of the World War. My estimate of him was formed on the battlefield many years ago and has never changed. I regarded him then, as I regard him now, as one of the world's greatest figures—not only in the era which witnessed his achievements but for all eyes and for all time. I regarded him as not only one of the greatest military figures but also as one of the most stainless; his name and fame are the birthright of every American citizen.

The world's estimate of him will be founded not upon any one battle or even series of battles; indeed, it is not upon the greatest fields of combat or the bloodiest that the recollections of future ages are riveted. The vast theaters of Asiatic conflict are already forgotten. The slaughtered myriads of Timour and Ghengis Khan lie in undistinguished graves. Hardly a pilgrim visits the scenes where on the fields of Chalons and Tours the destinies of civilization and Christendom were fixed by the skill of Aetius and the valor of Charles Martel.

The time indeed may come when the memory of the fields of Champagne and Picardy, of Verdun and the Argonne shall be dimmed by the obscurity of revolving years and recollected only as a shadow of ancient days.

But even then the enduring fortitude, the patriotic self-abnegation, and the unsurpassed military genius of the American soldier of the World War will stand forth in undimmed luster; in his youth and strength, his love and loyalty, he gave all that mortality can give. He needs no eulogy from me or from any other man; he has written his own history, and written it in red on his enemy's breast, but when I think of his patience under adversity, of his courage under fire, and of his modesty in victory I am filled with an emotion I cannot express. He belongs to history as furnishing one of the greatest examples of successful and disinterested patriotism. He belongs to posterity as the instructor of future generations in the principles of liberty and right. He belongs to the present—to us—by his glory, by his virtues, and by his achievements.

The memorials of character wrought by him can never be dimmed. He needs no statues or monuments; he has stamped himself in blazing flames upon the souls of his countrymen; he has carved his own statue in the hearts of his people; he has built his own monument in the memory of his compatriots.

The military code which he perpetuates has come down to us from even before the age of knighthood and chivalry. It embraces the highest moral laws, and will stand the test of any ethics or philosophies ever promulgated for the uplift of mankind. Its requirements are for the things that are right, and its restraints are from the things that are wrong. Its observance will uplift everyone who comes under its influence. The soldier, above all other men, is required to perform the highest act of religious teaching—sacrifice. In battle and in the face of danger and death he discloses those divine attributes which his Maker gave when he created man in his own image. No physical courage and no brute instinct can take the place of the divine annunciation and spiritual uplift which will alone sustain him. However horrible the incidents of war may be, the soldier who is called upon to offer and to give his life for his country is the noblest development of mankind.

On such an occasion as this my thoughts go back to those men who went with us to their last charge. In memory's eye I can see them now—forming grimly for the attack, blue-lipped, covered with sludge and mud, chilled by the wind and rain of the fox hole, driving home to their objective, and to the judgment seat of God. I do not know the dignity of their birth, but I do know the glory of their death. They died unquestioning, uncomplaining, with faith in their hearts and on their lips the hope that we would go on to victory.

Never again for them staggering columns, bending under soggy packs, on many a weary march from dripping dusk to drizzling dawn. Never again will they slug ankle deep through the mud on shell-shocked roads. Never again will they stop cursing their luck long enough to whistle through chapped lips a few bars as some clear voice raised the lilt of Madelon. Never again ghastly trenches, with their maze of tunnels, drifts, pits, dugouts—never again, gentlemen unafraid.

They have gone beyond the mists that blind us here and become part of that beautiful thing we call the spirit of the Unknown Soldier. In chambered temples of silence the dust of their dauntless valor sleeps, waiting, waiting in the chancery of heaven the final reckoning of Judgment Day. "Only those are fit to live who are not afraid to die."

Our country is rich and resourceful, populous and progressive, courageous to the full extent of propriety. It insists upon respect for its rights, and likewise gives full recognition to the rights of all others. It stands for peace, honesty, fairness, and friendship in its intercourse with foreign nations.

It has become a strong, influential, and leading factor in world affairs. It is destined to be even greater if our people are sufficiently wise to improve their manifold opportunities. If we are industrious, economical, absolutely fair in our treatment of each other, strictly loyal to our Government, we, the people, may expect to be prosperous and to remain secure in the enjoyment of all those benefits which this privileged land affords.

But so long as humanity is more or less governed by motives not in accord with the spirit of Christianity, our country may be involved by those who believe they are more powerful, whatever the ostensible reason advanced may be—envy, cupidity, fancied wrong, or other unworthy impulse may direct.

Every nation that has what is valuable is obligated to be prepared to defend against brutal attack or unjust effort to seize and appropriate. Even though a man be not inclined to guard his own interests, common decency requires him to furnish reasonable oversight and care to others who are weak and helpless. As a rule, they who preach by word or by deed "Peace at any price", are not possessed of anything worth having, and are oblivious to the interest of others including their own dependents.

The Lord Almighty, merciful and all-wise, does not absolutely protect those who unreasonably fail to contribute to their own safety, but He does help those who, to the limit of their understanding and ability, help themselves. This, my friends, is fundamental theology.

On looking back through the history of English-speaking people, it will be found in every instance that the most sacred principles of free government have been acquired, protected, and perpetuated through the embodied, armed strength of the people concerned. From Magna Carta to the present day there is little in our institutions worth having or worth perpetuating that has not been achieved for us by armed men. Trade, wealth, literature, and refinement cannot defend a state—pacific habits do not insure peace nor immunity from national insult and national aggression.

Every nation that would preserve its tranquillity, its riches, its independence, and its self-respect must keep alive its martial ardor and be at all times prepared to defend itself.

The United States is a preeminently Christian and conservative nation. It is far less militaristic than most nations. It is not especially open to the charge of imperialism. Yet one would fancy that Americans were the most brutally blood-thirsty people in the world to judge by the frantic efforts that are being made to disarm them both physically and morally. The public opinion of the United States is being submerged by a deluge of organizations whose activities to prevent war would be understandable were they distributed in some degree among the armed nations of Europe and Asia. The effect of all of this unabashed and unsound propaganda is not so much to convert America to a holy horror of war as it is to confuse the public mind and lead to muddled thinking in international affairs.

A few intelligent groups who are vainly trying to present the true facts to the world are overwhelmed by the sentimentalist, the emotionalist, the alarmist, who merely befog the real issue which is not the biological necessity of war but the biological character of war.

The springs of human conflict cannot be eradicated through institutions but only through the reform of the individual human being. And that is a task which has baffled the highest theologians for 2,000 years and more.

I often wonder how the future historian in the calmness of his study will analyze the civilization of the century recently closed. It was ushered in by the end of the Napoleonic Wars which devastated half of Europe. Then followed the Mexican War, the American Civil War, the Crimean War, the Austro-Prussian War, the Franco-Prussian War, the Boer War, the opium wars of England and China, the Spanish-American War, the Russo-Japanese War and, finally, the World War—which, for ferocity and magnitude of losses, is unequalled in the history of humanity.

If he compares this record of human slaughter with say the thirteenth century when civilization was just emerging from the Dark Ages, when literature had its Dante; art its Michelangelo and Gothic architecture; education, the establishment of the famous colleges and technical schools of Europe; medicine, the organization of hospital systems; and politics, the foundation of Anglo-Saxon liberty, the Magna Carta—the verdict cannot be that wars have been on the wane.

In the last 3,400 years only 268—less than 1 in 13—have been free from wars. No wonder that Plato, that wisest of all men, once exclaimed, "Only the dead have seen the end of war!" Every reasonable man knows that war is cruel and destructive. Yet, our civilization is such that a very little of the fever of war is sufficient to melt its veneer of kindness. We all dream of the day when human conduct will be governed by the Decalogue and the Sermon on the Mount. But, as yet it is only a dream. No one desires peace as much as the soldier, for he must pay the greatest penalty in war. Our Army is maintained solely for the preservation of peace—or, for the restoration of peace after it has been lost by statesmen or by others.

Dionysius, the ancient thinker, twenty centuries ago uttered these words: "It is a law of nature, common to all mankind which time shall neither annul nor destroy, that those that have greater strength and power shall bear rule over those who have less." Unpleasant as they may be to hear, disagreeable as they may be to contemplate, the history of the world bears ample testimony to their truth and wisdom. When looking over the past, or when looking over the world in its present form, there is but one trend of events to be discerned—a constant change of tribes, clans, nations, the stronger ones replacing the others, the more vigorous ones pushing aside, absorbing, covering with oblivion the weak and the worn-out.

From the dawn of history to the present day it has always been the militant aggressor taking the place of the unprepared. Where are the empires of old? Where is Egypt, once a state on a high plane of civilization, where a form of socialism prevailed and where the distribution of wealth was regulated? Her high organization did not protect her. Where are the empires of the East and the empires of the West which once were the shrines of wealth, wisdom, and culture? Where are Babylon, Persia, Carthage, Rome, Byzantium? They all fell, never to rise again, annihilated at the hands of a more warlike and aggressive people, their cultures memories, their cities ruins.

Where are Peru and old Mexico? A handful of bold and crafty invaders destroyed them, and with them their institutions, their independence, their nationality, and their civilization.

And saddest of all the downfall of Christian Byzantium. When Constantinople fell, that center of learning, pleasure, and wealth—and all the weakness and corruption that goes with it—a pall fell over Asia and southeastern Europe which has never been lifted. Wars have been fought these nearly five centuries that have had for at least one of their goals the bringing back under the cross of that part of the world lost to a wild horde of a few thousand adventurers on horseback whom hunger and the unkind climate of their steppes forced to seek more fertile regions.

The thousand years of existence of the Byzantine empire, its size, its religion, the wealth of its capital city were but added incentives and inducements to an impecunious conqueror. For wealth is no protection against aggression. It is no more an augury of military and defensive strength in a nation than it is an indication of health in an individual. Success in war depends upon men, not money. No nation has ever been subdued for lack of it. Indeed, nothing is more insolent or provocative, or more apt to lead to a breach of the peace than undefended riches among armed men.

And each nation swept away was submerged by force of arms. Once each was strong and militant, each rose by military prowess, each fell through degeneracy of military capacity, because of unpreparedness. The battlefield was the bed upon which they were born into this world and the battlefield became the couch on which their worn-out bodies finally expired. Let us be prepared, lest we, too, perish.

"They will tell of the Peace Eternal—
And we would wish them well!
They will scorn the wrath of war's red path,
And brand it the road to Hell.
They will set aside their warrior pride—
And their love for the soldier sons—
But at the last they will turn again
To Horse and Foot and Guns.

"They will tell of the Peace Eternal—
The Assyrian dreamers did—
But the Tigris and Euphrates ran
Through ruined lands. And mild
The hopeless chaos loud they wept,
And called their chosen ones
To save their lives at the bitter last
With Horse and Foot and Guns.

"They will tell of the Peace Eternal—
And may that peace succeed:
But what of a foe that waits to spring?
And what of a Nation's need?
The letters blaze on history's page—
And ever the writing runs—
God and Honour and Native Land—
And Horse and Foot and Guns."

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. HAYDEN in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. PITTMAN, from the Committee on Foreign Relations, reported favorably the nomination of Hoffman Philip,

of New York, to be Ambassador Extraordinary and Plenipotentiary to Chile.

He also, from the same committee, reported favorably the nomination of Anthony J. Drexel Biddle, Jr., of Pennsylvania, to be Envoy Extraordinary and Minister Plenipotentiary to Norway.

He also, from the same committee, reported favorably the nomination of Lester A. Walton, of New York, to be Envoy Extraordinary and Minister Plenipotentiary to Liberia.

He also, from the same committee, reported favorably the nominations of several officers in the Diplomatic and Foreign Service.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the calendar is in order.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

RECESS

Mr. ROBINSON. As in legislative session, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Thursday, July 18, 1935, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 17 (legislative day of May 13), 1935

CONSUL GENERAL

Parker W. Buhrman, of Virginia, now a Foreign Service officer of class 4 and a consul, to be a consul general of the United States of America.

UNITED STATES MARSHAL

Albert M. Rowe, of West Virginia, to be United States marshal, northern district of West Virginia, vice Harry A. Weiss, whose resignation is effective August 31, 1935.

PROMOTIONS AND APPOINTMENTS IN THE NAVY

The following-named commanders to be captains in the Navy from the 30th day of June 1935:

Francis A. L. Vossler.

Edmund D. Almy, an additional number in grade.

Lt. Comdr. Edwin T. Short to be a commander in the Navy from the 1st day of June 1935.

The following-named lieutenant commanders to be commanders in the Navy from the 30th day of June 1935:

Alexander R. Early

Robert W. Cary

William A. Heard

Lewis J. Stecher

Lt. Comdr. Gerard H. Wood to be a commander in the Navy from the 1st day of July 1935.

Lt. Emmet P. Forrestel to be a lieutenant commander in the Navy from the 30th day of June 1934.

Lt. Delmer S. Fahrney to be a lieutenant commander in the Navy from the 31st day of May 1935.

The following-named lieutenants to be lieutenant commanders in the Navy from the 30th day of June 1935:

Karl J. Christoph

John E. Gingrich

Jack E. Hurff

Douglass P. Johnson

Alf O. R. Bergesen

Joseph T. Talbert

Lyman S. Perry

Benjamin P. Ward

Jerome F. Donovan, Jr.

James R. Tague

Dixwell Ketcham

James B. Carter

William J. Strother, Jr.

John B. Mallard

Mark H. Crouter

James L. Wyatt

Cato D. Glover, Jr.

John M. Thornton

Harold F. Fick

George D. Morrison

Lt. (Jr. Gr.) William C. Schultz to be a lieutenant in the Navy from the 1st day of May 1935.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 1st day of June 1935.

Harry A. Simms

Glenn M. Cox

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 2d day of June 1935:

Richard S. Mandelkorn

Floyd B. Schultz

Charles J. Weschler

Francis A. Van Slyke

William R. Miller

Charles J. Palmer

Paul W. Pfingstag

Robert L. Evans

Halford A. Knoertzer

Walter D. Coleman

Donald I. Thomas

Robert T. Simpson

Joseph J. Loughlin, Jr.

Charlton L. Murphy, Jr.

John H. S. Johnson

Terrell A. Nisewaner

Albert E. Gates, Jr.

Irwin Chase, Jr.

Henry H. McCarley

Reader C. Scott

Charles H. Kretz, Jr.

Charles H. Smith

Midshipman George Hutchinson to be an ensign in the Navy, revocable for 2 years, from the 6th day of June 1935.

Midshipman Robert M. Hinckley, Jr., to be an ensign in the Navy, revocable for 2 years, from the 6th day of June 1935.

The following-named medical inspectors to be medical directors in the Navy, with the rank of captain, from the 1st day of July 1935:

Andrew B. Davidson

William L. Irvine

Griffith E. Thomas

Medical Inspector Gardner E. Robertson to be a medical director in the Navy, with the rank of captain, from the 1st day of July 1935.

Surgeon Rolland R. Gasser to be a medical inspector in the Navy, with the rank of commander, from the 1st day of August 1934.

The following-named surgeons to be medical inspectors in the Navy, with the rank of commander, from the 30th day of June 1935:

John H. Chambers

Orville R. Goss

Paul T. Crosby

Ladislaus L. Adamkiewicz

Robert H. Snowden

Thomas L. Morrow

William H. H. Turville

Clarence J. Brown

Ely L. Whitehead

Arthur H. Dearing

Paul M. Albright

Charles H. Savage

Walter A. Fort

Felix P. Keaney

James R. Thomas

Frank W. Ryan

Robert B. Team

Walter M. Anderson

Leslie B. Marshall

Robert P. Parsons

Travis S. Moring

Lynn N. Hart

Robert H. Collins

Otis Wildman

Charles L. Oliphant

John E. Porter

Horace R. Boone

Fenimore S. Johnson

David Ferguson, Jr.

Stephen R. Mills

James A. Brown

Rollo W. Hutchinson

Carlton L. Andrus

Millard F. Hudson

John T. Stringer

John H. Robbins

Dental Surgeon Leon C. Frost to be a dental surgeon in the Navy, with the rank of commander, from the 30th day of June 1935.

Passed Assistant Paymaster John L. H. Clarholm to be a paymaster in the Navy, with the rank of lieutenant commander, from the 1st day of June 1934.

Passed Assistant Paymaster Charles J. Lanier to be a paymaster in the Navy, with the rank of lieutenant commander, from the 29th day of June 1934.

Naval Constructor Joseph L. McGuigan to be a naval constructor in the Navy, with the rank of commander, from the 1st day of August 1934.

The following-named naval constructors to be naval constructors in the Navy, with the rank of commander, from the 30th day of June 1935:

Robert N. S. Baker

William Nelson

The following-named naval constructors to be naval constructors in the Navy, with the rank of commander, from the 1st day of July 1935:

Melville W. Powers

Howard L. Vickery

The following-named civil engineers to be civil engineers in the Navy, with the rank of commander, from the 30th day of June 1935:

Ben Moreell

Carl A. Trexel

Alden K. Fogg

Robert E. Thomas

Edward C. Seibert

William H. Smith

Willard A. Pollard, Jr.

John J. Manning

William M. Angas

Gunner Stanley F. Krom to be a chief gunner in the Navy, to rank with but after ensign, from the 1st day of October 1934.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 17 (legislative day of May 13), 1935

POSTMASTERS

ALABAMA

Grace C. Spangler, Leighton.

Jephtha H. Blake, Sheffield.

COLORADO

Lena Humiston, Bayfield.

Rose Richards, Buena Vista.

Rudolph G. Verzuh, Crested Butte.

Jenner A. Hames, Genoa.

Anna May Durham, Mount Morrison.

Cleatus G. Marshall, Pagosa Springs.

INDIANA

Blanche Webster, Bloomington.

Lawrence H. Barkley, Moores Hill.

MASSACHUSETTS

Thomas F. Coady, North Attleboro.

Timothy W. Fitzgerald, Salem.

Frank J. Lucey, Wenham.

NEBRASKA

Rose T. Fleming, Monroe.

OHIO

Franklyn W. Thomas, Bowling Green.

Raymond C. Ritenour, Cedarville.

John M. Paull, Conneaut.

Archie L. Wardeska, Irondale.

Frank J. Lange, Kelleys Island.

William N. Long, Kingsville.

Leo M. Keller, Nevada.

Fred L. Decker, Ostrander.

Clare S. Myers, Roseville.

Howard Barns, Sabina.

Stanley Lynn, Thornville.

Frank M. Fox, Waynesville.

Vance K. McVicker, West Salem.

HOUSE OF REPRESENTATIVES

WEDNESDAY, JULY 17, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Blessed Lord God, in the noontide light of Thy perfection we humble ourselves and pray Thee to make us wise to know the right and give us courage to perform it. We beseech Thee to illuminate, inspire, and fortify us against the blighting power of evil; this strength is found in the consciousness of divine favor, in the enjoyment of the divine presence, and in living a truly godly life. Bring our whole land to the realization that Thou art the basis for morals, the guaranty of public order, and the blessed inspiration of civilization and progress. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 884. An act for the relief of Lt. Comdr. G. C. Manning; and

S. 2532. An act to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes.

THE JUDICIARY COMMITTEE

Mr. UTTERBACK. Mr. Speaker, I ask unanimous consent that the Judiciary Committee may be permitted to sit during the sessions of the House today and Thursday and Friday and Saturday of this week.

The SPEAKER. Is there objection?

There was no objection.

CALENDAR WEDNESDAY

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that the business in order today on Calendar Wednesday be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

Mr. CHRISTIANSON. I object.

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the business on Calendar Wednesday today be dispensed with.

The question was taken; and two-thirds having voted in favor thereof, the motion was agreed to.

RESIGNATION

The SPEAKER laid before the House the following communication:

WASHINGTON, D. C., July 17, 1935.

Hon. JOSEPH W. BYRNS,

Speaker of the House of Representatives,

Washington, D. C.

MY DEAR MR. SPEAKER: I hereby respectfully submit my resignation as a member of the following committees: Committee on Claims, Committee on Patents, Committee on Roads.

Yours very truly,

SCOTT W. LUCAS.

THE MILITARY DISAFFECTION BILL

Mr. MAVERICK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

There was no objection.

Mr. MAVERICK. Mr. Speaker, the Military Affairs Committee, of which I am a member, has recently reported out or ordered to report out, without a quorum, and without reading the bill, what is known as the "military disaffection bill" and which, in my opinion, is one of the most outrageous invasions of human rights ever attempted on the American people. It gags the press; it gags every liberty given in the Constitution of the United States. It violates every precedent of American liberty and adopts the philosophy of communism and fascism—that is, that the civilian population shall be subject to the military instead of our civil government controlling the military. It is a dangerous bill and I shall have plenty to say about it later.

It should be known as the "Stalin-Hitler bill." It is the first time any such attempt has been made in peace time; I consider it one of the most dangerous bills ever reported out of a committee.

Strangely enough, the newspapers did not at first pay any attention to it, although it primarily violates the right of freedom of the press.

The first newspaper to give it any attention was the Newark Evening News, in a special article by Mr. Walter Karig, their able representative in Washington, of that newspaper. This newspaper deserves great credit for giving this news, and I am not complimenting the newspaper, or Mr. Karig, because they happened to put the story on the front page.

As a result of this article, it has now become pretty well known over the Nation, and the rest of the newspapers are taking it up. Also, due to the fact that the bill was pushed through the Senate almost entirely by accident and by unanimous consent, this article has brought the matter to

the attention of many Senators, and many Senators are outraged over it.

The article in the Newark Evening News, which was printed on Monday, July 15, 1935, is as follows:

CENSORSHIP BILL NEAR ADOPTION—WOULD GIVE MILITARY PEACE-TIME POWER OVER PRESS—SILENTLY PUSHED

By Walter Karig

WASHINGTON.—Insidious assaults on the constitutionality guaranteed freedom of the press have been suspected from time to time in the last 2 years, but the first bill seriously to threaten Federal interference with the publication of newspapers, magazines, and books has just been favorably reported in the House after slipping through the Senate without a record vote.

Camouflaged as a patriotic measure to prevent distribution of radical propaganda in the Army and Navy, the bill gives the Military and Naval Establishments broad powers to censor and punish the press. It is a delegation of authority over civilians unprecedented in peace time, and if the bill becomes law—it stands excellent chance of passage—soldiers or sailors may invade any home or office to confiscate written or printed matter held suspect, with warrants issued under the old war-time Espionage Act.

PLENTY OF LAWS NOW

The bill originated in the Senate as S. 2253 and is without sponsorship there, although Senator TYDINGS (Democrat of Maryland) of the Naval Affairs Committee, which favorably reported it, declared that the War and Navy Departments wanted it. It is not an administration measure in the sense of having White House endorsement, however.

The bill was labeled no. 5845 in the House, where it was sponsored by Representative McCORMACK (Democrat, Massachusetts), Chairman of the Special Committee on Un-American Activities. The House Military Affairs Committee toned the Senate measure down somewhat.

Representative McLEAN (Republican, New Jersey), a member of the Military Affairs Committee, thinks the proposed law at least unnecessary. He said he voted to report it because he thought the House amendments removed most of the vicious qualities from the Senate bill, but that his belief is there are "plenty of laws" now to take adequate care of the situation the bill ostensibly attacks. McLEAN said the bill was scarcely complimentary to the soldiers and sailors of the Nation. "If everybody was as patriotic as these men are", he said, "we could do without a lot of laws."

LIKE RUSSIA

Representative MAVERICK (Democrat, Texas) did not vote to report the bill, but in an unofficial minority report termed it "hysterical", "unconstitutional", and akin to the press-destroying laws of Soviet Russia and Fascist Germany.

"As the bill stands", MAVERICK later declared to this bureau, "it means 2 years in jail and a heavy fine for any newspaper editor who publishes and any newspaper reporter who writes stories critical of the Army and Navy or military equipment. A newspaper which gets information leading it to suspect that certain military airplanes are untrustworthy, or that a new ship was jerry-built, and publishes that information lays itself open to suppression, confiscation, and imprisonment of its editor and writers. The latitude of interpretation of the law is so great there is practically no limit."

The Senate bill made it a crime subject to imprisonment, fine, and confiscation for any individual or corporation to "advise, counsel, urge, or solicit" members of "military and naval forces" to disobey the laws and regulations of the military forces. Amendments in the House committee specify the Army and the Navy, eliminating the National Guard and the Marine Corps, and wrote in the phrase that the offending writer must have had "intent to incite disaffection." Under the Senate bill newspapers or the publishers and authors of books or pamphlets could be punished for criticizing the use or behavior of National Guardsmen on strike duty, for instance.

CRITICISMS OF CAMPS OUT

However, the "intent to incite disaffection" clause injected by the House committee takes away with one hand what concessions were made by the other to limit the application of the law.

It is held by critics of the bill, including legal authorities, that a writer or publisher could be held to have had "intent to incite disaffection" through criticism of naval intervention by the United States in Cuba or Haiti or Nicaragua. Editorials or newspaper accounts criticizing the management or conditions at civilian military training camps, at Army or Navy maneuvers, or in forts and naval bases would fall under the ban.

Accounts and opinions taking exception to the loss of life through ship collisions and airplane failures such as marked the recent Pacific Fleet games could, under the terms of the bill, subject the publishers to confiscation of their newspapers or magazines. Even if found not guilty after trial, the damage would have been done.

DOUBTING WAR'S VIRTUES

These, however, are specific examples of the intended law's possible effects. There is no inhibition in the bill to prevent the military authorities from taking action against any newspaper or magazine article or book which in their opinion would, if read by a soldier or sailor, make him doubt the virtues of war. Any book or article preaching nonaggression, or treating warfare too realistically, might offend some admiral or general, whereupon the

whole edition could be confiscated and impounded until court action determined the application of the law.

The bill goes beyond constructions upon the freedom of the press. It is not required that the military offensive matter be printed or even circulated. Manuscripts may be seized under the enabling Espionage Act. A man might tell a friend he was writing a book or article which, upon report, sounded offensive to the authorities and find his house raided as a result. Even letters are brought under ban, and a mother writing to a run-away son in the Army or Navy, innocently deploring his environment, his companions, or his imminent transfer to China, would be subject to 2 years in jail and \$1,000 fine.

Senator SCHALL, Republican, of Minnesota, who has consumed hours in tirades against the Roosevelt administration for more or less imaginary assaults on the freedom of the press, was mutely present in the Senate when the bill was read and adopted. So was Senator VANDENBERG, Republican, of Michigan, a newspaper publisher and leading contender for the Republican Presidential nomination, but he was paying attention to other matters at the time of the Senate's action. It was a session devoted to the Consent Calendar, when personal bills, almost always of minor importance, are called up and mechanically adopted.

Despite the quietness attending the bill so far, a silence broken only by MAVERICK's criticism accompanying the report, the proposed law is one of the most sweeping and potentially disruptive of American tradition yet seen in Congress, the several revolutionary new-deal bills not excepted.

THE TENNESSEE VALLEY AUTHORITY BILL

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H. R. 8632, the Tennessee Valley Authority bill, disagree to the Senate amendments and agree to the conference asked for.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

Mr. MAVERICK. Reserving the right to object, will the gentleman from South Carolina inform this House how many conferees there will be?

Mr. McSWAIN. I do not mind stating to the gentleman that I have recommended to the Speaker to appoint five.

Mr. MAVERICK. The Senate has appointed three conferees, and the gentleman who is chairman of my committee recommends five. The other day the Republicans objected to the gentleman from Texas [Mr. RAYBURN] having six conferees when the Senate had five, and Mr. RAYBURN agreed to this for a Republican member of his committee. Why should we in this case have a different number from the Senate? There must be some peculiar reason. I do not know what the general custom is but I do not see why we should not have the same number as the Senate; this seems reasonable and equitable. I do not see why we should not do the same for the Democrats as we did for the Republicans, I do not believe the T. V. A. should be discriminated against. The House has spoken. Let us not hold this program up any longer.

Mr. McSWAIN. I think the gentleman from Texas has the information that he seems to be asking for. He has that in his own breast. There is no need for bringing it out here.

Mr. MAVERICK. I do not know about my breast, but I have something very clearly in my head. Since the gentleman knows what is in my breast, I am sure he knows what is in my head about this long-drawn-out T. V. A. affair. I think it ought to be brought out, if we are going to have unfriendly Members on the conference. The T. V. A. has suffered enough obstruction.

Mr. BLANTON. Will the gentleman yield?

Mr. MAVERICK. Yes.

Mr. BLANTON. There are instances where the Senate has had five and even seven conferees, and in one instance the Senate had nine.

Mr. MAVERICK. Undoubtedly the gentleman is technically correct. But there may be reasons for this. We ought to have a clear understanding.

Mr. McSWAIN. We all know that conferees for each House only have 1 vote. It makes no difference how many there are on the conference committee. They are all bound to support the House bill.

The SPEAKER. Is there objection?

Mr. MAVERICK. Mr. Speaker, reserving the right to object, an agreement was made by certain Members of the Military Affairs Committee to have five conferees, with un-

friendly people on this committee. As one of the friends of the T. V. A., I was not invited, and as far as I know Mr. THOMASON, of Texas, and Mr. WILCOX, of Florida, and Mr. HILL of Alabama, also friends of the T. V. A., were not there. I think it is wrong. I think this is a bad precedent to put unfriendly men on the conference committee; it may hold things up, and it does not appear to me as fair—I will not be a party to any agreement unfriendly to the purposes of the great T. V. A. program.

The SPEAKER. Is there objection?

Mr. SNELL. Mr. Speaker, I reserve the right to object. Is this conference agreeable to the gentleman from Pennsylvania [Mr. RANSLEY] and the gentleman from New Jersey [Mr. McLEAN]?

Mr. McSWAIN. I have spoken to Mr. RANSLEY twice, and the conferees I propose to nominate are entirely satisfactory to him.

Mr. EKWALL. Mr. Speaker, will the gentleman yield?

Mr. McSWAIN. Yes.

Mr. EKWALL. Does the gentleman know what the gentleman from Texas [Mr. MAVERICK] means by the term "unfriendly"? Does he mean unfriendly to his particular ideas?

Mr. MAVERICK. I mean unfriendly to what the House decided on. I am talking about the bill as passed in the House. It happens that I am with the majority, with the President, and with the Democratic Party, and for the great T. V. A. program.

The SPEAKER. Is there objection?

Mr. McFARLANE. Mr. Speaker, I reserve the right to object, to ask this question: I would like to see the personnel of the conference committee appointed according to the way the majority of the House voted, and the personnel should be so appointed so that a majority of the committee will favor the majority position of the House. Take the first three members on the conference committee, based on their vote on this question, and on the different administration amendments in the different issues voted on in the House. How would their known position on this legislation stand up with the opinion of the majority of the House on the legislation?

Mr. McSWAIN. The three members on the majority side whom I have nominated to the Speaker voted for the bill and voted against the motion to recommit. As I have stated time and time again, I am for whatever the House does; and I state again that I am for the House bill.

The SPEAKER. After all, the Chair appoints the conferees. The Chair is always willing to accept the suggestions made by the chairman of the committee which has charge of the bill, assuming that the members who are appointed will stand for the House measure because they represent the House in the conference.

Mr. MAVERICK. One of the members of the conferees has been one of the three bitterest opponents on the committee of the bill the President wants, and that is the gentleman from Louisiana [Mr. MONTE]. As I understand it, he is one of those to be appointed. Yes; Mr. MONTE finally voted for the bill, but he has consistently fought the bill from the very beginning.

The SPEAKER. The Chair would certainly not assume that the gentleman from Louisiana would accept a position as a conferee and not stand for what the House wants, because that is what the House conferees are expected to do, consistent with any proper compromises that are necessary in order to put the measure through. On the contrary, the Chair has complete confidence in the gentleman in every sense of the word. That is a matter which should appeal to the conferees when they go into session, and, after all, when the matter is reported to the House, the House has its opportunity to express its approval or disapproval of the conference report.

Mr. MAVERICK. I have respect for the traditions by which the Speaker is bound, and I hope he is correct in believing that the T. V. A. bill will get sympathetic treatment according to the will of the House. I hope the House conferees will show their good faith and report promptly. I am frank to say that I do not like the situation.

Mr. McFARLANE. Mr. Speaker, still further reserving the right to object, a policy has been announced in the other body of appointing all conferees based upon the record of their votes in determining the number that shall be appointed from the majority and the minority, as to legislation. That policy was announced early this session. I hope the Chair will bear that in mind when the conferees are appointed, based on the differences between the amendments to the bill as it came to the House and the amendments as we rewrote the bill on the floor of the House.

Mr. BLANTON. Mr. Speaker, I make the point of order that this is a prerogative of the Chair and we have nothing to do with it.

Mr. MAVERICK. I withdraw my objection, but I want the Record to show my protest. I will wait and see. I am willing to withdraw this objection on the theory that I will never do anything to obstruct the T. V. A.—and I hope the conferees will take the same attitude. This bill should have been finally settled and adopted long, long ago.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Chair appointed the following conferees: Mr. McSWAIN, Mr. HILL of Alabama, Mr. MONTET, Mr. McLEAN, and Mr. PLUMLEY.

SOCIAL SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I call up the conference report upon the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a social security board; to raise revenue; and for other purposes, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from North Carolina calls up the conference report upon the bill 7260, and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. NICHOLS. Mr. Speaker, I reserve the right to object. Is this the conference report that has to do with the social security bill?

The SPEAKER. The Chair so understands it.

Mr. NICHOLS. Then I desire to propound a parliamentary inquiry. Will the reading of the statement, rather than the reading of the report, preclude Members from having an opportunity to vote for the approval or disapproval and to be heard upon the report of the conferees?

The SPEAKER. Not at all. As to the reading of the statement, it is up to the House to adopt the report, the time for debate being in control of the gentleman from North Carolina.

Mr. NICHOLS. I am just a little green on the parliamentary procedure, and I wanted to know that this would not foreclose the House on any rights in considering the conference report.

The SPEAKER. Not at all. Is there objection?

There was no objection, and the Clerk read the statement. The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 23, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69,

71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "Provided, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: "welfare services (hereinafter in this section referred to as 'child-welfare services') for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" and a comma; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid." and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "EIGHT"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "eight"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"APPROPRIATION

"SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"STATE PLANS FOR AID TO THE BLIND

"SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim

for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

"(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

"(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

"(2) Any citizenship requirement which excludes any citizen of the United States."

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments: On page 24 of the Senate engrossed amendments, line 19, strike out "permanently", and on page 25 of the Senate engrossed amendments, line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"DEFINITION

"Sec. 1006. When used in this title the term "aid to the blind" means money payments to blind individuals."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "XI"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1101"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1102"; and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1103"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1104"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1105"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

R. L. DOUGHTON,
SAM. B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
Managers on the part of the House.
PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, Jr.,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their un-

employment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

On amendment no. 1: The House bill, with reference to the appropriation authorized for grants to States for old-age assistance, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to aged individuals without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals. The House recedes.

On amendments nos. 2 and 3: The House bill required the State plan for old-age assistance to provide that if the State or any of its political subdivisions collects from the estate of any recipient any amount with respect to old-age assistance under the plan, one-half of the net amount so collected shall be promptly paid to the United States. The Senate amendments provide for the repayment to the United States in such cases, instead of one-half of the net amount so collected, a portion of the net amount collected proportionate to the part of the old-age assistance representing payments made by the United States. The Senate recedes.

On amendment no. 4: This amendment provides that in order to assist the aged of States, who have no State system of old-age pensions, until an opportunity is afforded the States to provide for a State plan, the Secretary of the Treasury shall pay to each State for each quarter until not later than July 1, 1937, in lieu of the amounts payable under the House bill which were to be matched by the States, an amount sufficient to afford old-age assistance to each needy individual within the State who at the time of such expenditure is 65 years of age or older, and who is declared by such agency as may be designated by the Social Security Board to be entitled to receive the same, old-age assistance not in excess of \$15 a month.

The House recedes with an amendment, in lieu of the Senate amendment, which provides that the State plan for old-age assistance, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

On amendment no. 5: The House bill provided that the Board, before stopping payments to a State for old-age assistance on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendments nos. 6, 7, and 8: The House bill, with reference to the "Old-age reserve account" for the payment of Federal old-age benefits under title II, provided that the amount of authorized appropriations should be based upon such tables of mortality as the Secretary of the Treasury should adopt; that the Secretary of the Treasury should submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the account; and that he should include in his annual report the actuarial status of the account. The Senate amendments transfer these duties to the Social Security Board. The Senate recedes.

On amendment no. 9: This amendment provides that for every month during which the Board finds that an aged person, otherwise qualified for Federal old-age benefits under title II, is regularly employed, after he attains the age of 65, a month's benefit will be withheld from such person, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefits to such person. The House recedes.

On amendments nos. 10 and 11: The House bill excepted from the term "employment", as used in title II relating to the payment of Federal old-age benefits, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

On amendments nos. 12, 13, and 14: These amendments make changes in paragraph numbers. The Senate recedes.

On amendment no. 15: The House bill in defining the term "employment", as used in title II relating to the payment of Federal old-age benefits, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes, the conferees omitting this language as surplusage, based on the fact that the Internal Revenue Bureau has uniformly construed language in the income-tax laws, identical with that found in the House bill, as exempting hospitals not operated for profit, and also on the fear that the insertion of the words added by the Senate amendment might interfere with the continuation of the long-continued construction of the income-tax law.

On amendment no. 16: This amendment excepts from the definition of "employment", as used in title II, relating to the payment of Federal old-age benefits, service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendments nos. 18 and 19: The House bill provided that the Social Security Board should not certify for payment to any State under title III amounts for the administration of the State unemployment-insurance law unless such law provides for payment of unemployment compensation solely through public employment offices in the State. The Senate amendments require that the State law must provide for payment of unemployment compensation through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate amends on amendment no. 18, and the House recedes on amendment no. 19 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the State law cannot be approved by the Board unless it provides for the payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve.

On amendment no. 20: The House bill provided that the Board, before stopping payments to a State for grants for unemployment-compensation administration on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 21: The House bill, with reference to the appropriation authorized for grants to States for aid to dependent children, stated that the appropriation was for the purpose of enabling each State to furnish financial assistance assuring, as far as practicable under the conditions in such State, a reasonable subsistence compatible with decency and health to dependent children without such subsistence. The Senate amendment states that the appropriation is for the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children. The House recedes.

On amendments nos. 22 to 27, 29 to 38, and 40 to 44: The House bill placed the administration of title IV, relating to grants to States for aid to dependent children in the Social Security Board. The Senate amendments transfer these functions in part to the Secretary of Labor and in part to the Chief of the Children's Bureau, and make clerical changes to carry out this policy. The Senate recedes.

On amendment no. 28: The House bill in title IV, relating to grants to States for aid to dependent children, provided that no State plan should be approved which imposes as a condition for eligibility for aid to dependent children a residence requirement which denies aid to any child residing in the State who was born in the State within 1 year immediately preceding the application. The Senate amendment permits the State plan to deny aid to such a child if its mother has not resided in the State for 1 year immediately preceding the birth. The House recedes.

On amendment no. 39: The House bill provided that the Board, before stopping payments to a State for aid to dependent children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 45: This amendment adds to the definition of a "dependent child" for the purposes of title IV, giving aid to dependent children, a requirement that the child must have been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent. The House recedes.

On amendment no. 46: The House bill in defining the term "dependent child" for the purposes of title IV, relating to grants to States for aid to dependent children, contained a requirement that the child must be living in a "residence" maintained by one or more of certain relatives as his or their own home. The Senate amendment clarifies the meaning of the word "residence" by making it certain that it is not confined to a separately maintained house but refers to any place of abode, whether a separate house, an apartment, a room, a houseboat, or other place of abode. The House recedes.

On amendments nos. 47 and 48: Under the House bill the allotments to each State from appropriations made for maternal and child-health services were made on the basis of the live births in such State as compared with the total number of live births in the United States. The Senate amendments provide that the proration shall be made on the basis of figures for the latest calendar year for which the Bureau of the Census has available statistics. The House recedes.

On amendment no. 49: This is a clarifying amendment. The House recedes.

On amendment no. 50: The House bill provided that the methods of administration required in the State plan for maternal and child-health services should be such as are "found by the Chief of the Children's Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

On amendment no. 51: This is a clarifying amendment. The House recedes.

On amendment no. 52: This amendment requires the report filed by the State with respect to estimated expenditures for maternal and child-health services to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

On amendment no. 53: The House bill provided that the Secretary of Labor, before stopping payments to a State for maternal and child health services on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 54: This is a clarifying amendment. The House recedes.

On amendment no. 55: The House bill provided that the methods of administration required in the State plan for services to crippled children should be such as are "found by the Chief of the Children's Bureau to be" necessary for the efficient operation of the plan. The Senate amendment strikes out the matter above quoted so that the final judgment as to what methods are necessary in the State rests with the courts rather than with the Chief of the Children's Bureau. The House recedes.

On amendment no. 56: This is a clarifying amendment. The House recedes.

On amendment no. 57: This amendment requires the report filed by the State with respect to estimated expenditures for services to crippled children to include amounts appropriated or made available by political subdivisions of the State. The House bill required only amounts appropriated or made available by the State. The House recedes.

On amendment no. 58: The House bill provided that the Secretary of Labor, before stopping payments to a State for services to crippled children on the ground that the State plan is not being complied with, should give notice and opportunity for hearing to the State agency. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendments nos. 59 and 60: The House bill authorized an appropriation of \$1,500,000 and provided that the money so appropriated should be allotted among the States for payment of part of the cost of county and local child welfare services in rural areas. The purpose of the section was stated to be the cooperation with State public welfare agencies in establishing, extending, and strengthening, in rural areas, public welfare services for four types of children—homeless, neglected, dependent, and those in danger of becoming delinquent. Senate amendment no. 59, besides clarifying the language of the House bill, provided that in making allotments there should be taken into consideration plans developed both by the State welfare agency and the Children's Bureau. The areas in which child welfare services were to be encouraged were extended from "rural areas" to those "predominantly rural", and "other areas in special need" were included in the work of developing the work of State services for encouraging adequate support of child welfare organizations. The classes of children to be aided, however, were limited to those who were homeless or neglected. Amendment no. 60 prescribes the method of making payments. The House recedes on amendment no. 60, and recedes on amendment no. 59 with an amendment, to the effect that the classes of children to be cared for will include children who are homeless, dependent, neglected, or in danger of becoming delinquent.

On amendment no. 61: The House bill authorized additional appropriations for the administration of the Vocational Rehabilitation Act of June 2, 1920, as amended, by the "Federal agency authorized to administer it." The Senate amendment provides that the authorized appropriation should be for the administration of such act by the Office of Education in the Department of the Interior. The Senate recedes.

On amendments nos. 62, 63, and 64: These are clarifying amendments. The House recedes.

On amendment no. 65: The House bill established a Social Security Board for the administration of certain portions of the act. This amendment provides that the Board shall be established in the Department of Labor. The Senate recedes.

On amendment no. 66: This amendment provides that no member of the Social Security Board during his term shall engage in any other business, vocation, or employment, and also that not more than two of the members of the Board shall be members of the same political party. The House recedes.

On amendment no. 69: This amendment provides that appointments of attorneys and experts by the Social Security Board may be made without regard to the civil service laws. The House recedes.

On amendment no. 70: This amendment provides that the report of the Social Security Board to Congress, required by the House bill, shall be made through the Secretary of Labor. The Senate recedes.

On amendments nos. 71 and 72: The House bill provides that if more or less than the correct amount of tax under title VIII is paid with respect to any wage payment, then proper adjustments should be made in connection with subsequent wage payments to the same individual by the same employer. The Senate amendments provide that such adjustments shall be made without interest. The House recedes.

On amendment no. 73: This amendment provides that if the tax imposed by title VIII is not paid when due there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate was 1 percent a month. The House recedes with an amendment correcting a clerical error.

On amendment no. 74: This amendment provides that the Postmaster General shall each month send a statement to the Treasury of the additional expenditures incurred by the Post Office Department in carrying out its duties under this act, and that the Secretary of the Treasury shall be directed to advance, from time to time, to the credit of the Post Office Department, "from appropriations made for the collection and payment of taxes provided under section 707 of this title", such amounts as may be required for additional expenditures incurred by the Post Office Department in the performance of the duties and functions required of the Postal Service by the act. The House recedes with clarifying amendments.

On amendments nos. 75 and 77: The House bill excepted from the term "employment", as used in title VIII imposing certain excise taxes, service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country. The Senate amendments strike out this exception and expressly include within the definition of "employment" service performed as an officer or member of the crew of a vessel documented under the laws of the United States. The Senate recedes.

On amendment no. 76: The House bill excepted from the term "employment", as used in Title VIII relating to certain excise taxes, service performed by an individual who has attained the age of 65. The Senate amendment strikes out this exception. The Senate recedes.

On amendments nos. 78, 79, and 80: These are amendments to paragraph numbers. The Senate recedes.

On amendment no. 81: The House bill in defining the term "employment", as used in title VIII imposing certain excise taxes, excepted service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

On amendment no. 82: This amendment excepts from the definition of "employment", as used in title VIII relating to certain excise taxes, service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendment no. 85: This is a change in a title heading. The House recedes with an amendment to conform to the action on amendment no. 91.

On amendments nos. 86 and 87: The House bill provided as one of the conditions for the approval of a State law for unemployment compensation that the law must provide that all compensation is to be paid through public employment offices in the State. The Senate amendment changes this requirement so that compensation must be paid through public employment offices in the State to the extent that such offices exist and are designated by the State for the purpose. The Senate recedes on amendment no. 86 and the House recedes on amendment no. 87 with an amendment changing the language of the amendment. The effect of the action of the conferees is to provide that the Board shall not approve any State law unless the law provides that all compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve.

On amendment no. 88: The House bill provided that the Social Security Board shall certify each State whose unemployment compensation law is approved, except that it shall not certify any State which, after notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in the bill or has failed substantially to comply with such provisions. The Senate amendment provides that the notice and opportunity for hearing must be "reasonable." The House recedes.

On amendment no. 89: This amendment provides that if the excise tax imposed by title IX is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 percent per month from the date the tax became due until paid. Under the House bill the rate of interest was 1 percent a month. The House recedes.

On amendments nos. 90 and 91: The House bill provided that the term "employment", as used in title IX, should not include any person unless on each of some 20 days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was 10 or more. The Senate amendments reduce the number of days from 20 to 13 and the number of individuals from 10 to 4. The Senate recedes on amendment no. 90 and the House recedes on amendment no. 91 with an amendment fixing the number of individuals at eight.

On amendment no. 92: The House bill, in defining the term "employment", as used in title IX relating to certain excise taxes, excepted service performed in the employ of a corporation, com-

munity chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. The Senate amendment adds to the list of purposes "or hospital" as a clarifying amendment. The Senate recedes in conformity with the action on amendment no. 15.

On amendment no. 93: This amendment excepts from the definition of "employment", as used in title IX imposing certain excise taxes, service performed in the employ of a corporation, community chest, fund, or foundation organized and operated exclusively for the prevention of cruelty to children or animals. The House recedes.

On amendment no. 94: Under the House bill in title IX, providing for a tax on employers with a credit against the tax of contributions paid into an employment fund under a State law, the term "unemployment fund" was defined as a fund "all the assets of which are mingled and undivided and in which no separate account is maintained with respect to any person"; in other words, requiring a "pooled" fund. The Senate amendment strikes out this requirement, leaving it to the State to define the character of its special fund. The House recedes.

On amendment no. 95: This is a clerical amendment. The House recedes.

On amendments nos. 96 and 97: Amendment no. 96 provides that a taxpayer under section 901 (unemployment excise tax) may, for 1938 or any taxable year thereafter, obtain an additional credit against his tax under certain conditions. A taxpayer carrying on business in a State will credit against the tax the amount of his contributions under the law of that State; and, under this new section, he will also credit the amount by which his contributions are less than they would have been if he had been contributing at the maximum rate in the State. The additional credit, however, is limited by not allowing it to exceed the difference between the actual amount paid and the amount he would have paid at a 2.7 percent rate; and the amendment also provides for limiting the additional credit to the proper difference allowed by the State law, diminishing it if the employer has failed to make any of the contributions required of him. In figuring what contributions the employer would have paid at the maximum rate, the highest rate applicable to any employer each time when contributions are payable is the rate considered. The amendment also provides that even if an employer is getting credit under section 902, and additional credit under this section, he shall never credit against tax more than 90 percent of the tax. Amendment no. 97 places restrictions on the allowance of the additional credit.

(1) A taxpayer who has been contributing to a pooled fund, and is allowed a lower rate than that imposed on other employers in the State, will get the additional credit only if he has had 3 years' compensation experience under the State law, and only if the lower rate is fixed as a result of his comparatively favorable experience.

(2) The taxpayer may have guaranteed the employment of his employees, and be contributing to a guaranteed employment account maintained by the State agency. In this case, if he claimed the additional credit under section 909, he would get it only if his guaranty had been fulfilled, and only if his guaranteed employment account amounted to at least 7½ percent of his guaranteed pay roll.

(3) The taxpayer may be contributing to a separate reserve account, from which benefits are payable only to his employees. If he claims the additional credit under section 909, it would be allowed only if, in the preceding year, those of his employees who became unemployed and were eligible for compensation received compensation from the reserve account. Furthermore, the additional credit would be allowed only if the reserve account amounted to 7½ percent of his pay roll, and was at least five times larger than the amount paid out from it, in compensation, in that year (among the 3 preceding years) when the greatest amount was thus paid out from it.

The amendments also defines terms used in this section:

(1) "Reserve account" is defined as a separate account in a State unemployment fund, from which compensation is payable only to the former employees of the employers contributing to the account. The account may be maintained with respect to one employer or a group of employers.

(2) "Pooled fund" is an unemployment fund (or part of such a fund, if some employers are maintaining separate accounts in the fund) in which all contributions are mingled and undivided. Compensation is payable from it regardless of whether the claimant was formerly in the employ of an employer contributing to the pooled fund; but where some employers in the State have reserve accounts, their former employees get compensation from the pooled fund only if the reserve accounts are exhausted.

(3) "Guaranteed employment account" is, like a reserve account, a separate account in an unemployment fund, but it can be maintained only with respect to certain employers. Compensation is payable from it to those of such employer's employees who, having been guaranteed employment, nevertheless become unemployed due to a failure to fulfill the guaranty, or become unemployed at the end of the year for which the guaranty was made, due to the nonrenewal of the guaranty. To be a "guaranteed employment account", such separate account would have to be maintained with respect to an employer who had guaranteed the wages of all of his employees (or if he maintains more than one distinct business establishment, of all the employees in at least one such establishment) for at least 40 weeks in a 12-month period. The wages guaranteed should be for at least 30 hours a week; but if 41 weeks, for instance, were guaranteed instead of

40, the weekly hours guaranteed could be cut from 30 to 29; and if 42 weeks were guaranteed, only 28 hours wages per week would need to be guaranteed. While ordinarily all the employees would have to be covered, the employer would not have to extend the guaranty to any new employee until the latter had served a probationary period of not more than 12 consecutive weeks.

(4) "Year of compensation experience", used only in relation to an employer, is defined as any calendar year during which, at all times in the year, a former employee of such employer, if there was one who was eligible for compensation, could receive compensation under the State law.

On amendments nos. 98 to 104: These amendments insert a new title to provide for grants to States for aid to the blind, authorizing \$3,000,000 for the fiscal year ending June 30, 1936, and thereafter a sum sufficient to carry out the title. Aid to the blind is defined as money payments to permanently blind individuals and money expended for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind. The payments are to be made on an equal matching basis, the machinery for the payments being modeled on the provisions of title I relating to old-age assistance. The administration of the title is placed in the Social Security Board. The State plan in order to be approved must, in addition to similar requirements as in the case of title I, provide that no aid will be furnished an individual with respect to any period with respect to which he is receiving old-age assistance under a State plan approved under title I. The State plan must also provide that money payments to a permanently blind individual will be granted in direct proportion to his need and the plan must also contain definitions of "blindness" and "needy individuals" which meet the approval of the Board. There is no age requirement, and the Federal contribution in the case of any individual is not to exceed \$15 a month. The House recedes on this new title with amendments striking out the provisions relating to the expenditure of moneys for locating blind persons, for providing diagnoses of their eye condition, and for training and employment of the adult blind; providing for money payments to blind persons in lieu of persons who are "permanently" blind; and omitting the requirements that the State plan must provide that money payments will be granted in direct proportion to the need of the individual and that the plan must contain definitions of "blindness" and "needy individuals."

On amendment no. 105: This amendment provides pensions for heads of families and single persons of Indian blood over 65 years of age, payable from the Federal Treasury. The pension is \$30 a month, reduced in the amount of the annual income. The amendment also provides for a pension of \$10 a month for persons of Indian blood under 65 years of age but permanently blind, and also a pension of \$10 a month for persons of Indian blood crippled or otherwise disabled. Indians and Eskimos of Alaska are to receive pensions in one-half the amounts above provided. The Senate recedes.

On amendments nos. 106, 107, 110, 111, 112, and 113: These amendments make changes in title and section numbers. The House recedes with the necessary amendments.

On amendments nos. 108 and 109: The House bill provided that nothing in the act should be construed as authorizing any Federal official, in carrying out any provision of the act, to take charge of a child over the objection of either parent or of the person standing in loco parentis to the child "in violation of the law of a State." Senate amendment no. 108 added State officials to the officials affected by the amendment and Senate amendment no. 109 struck out the language above quoted, "in violation of the law of a State." The Senate recedes on amendment no. 108 and the House recedes on amendment no. 109.

The House recedes from its disagreement to the amendment of the Senate to the title of the bill.

On amendments nos. 17, 67, 68, 83, and 84 (dealing with the exemption of private pension plans in titles II and VIII) the conferees are unable to agree.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAY,
ISAAC BACHARACH,

Managers on the part of the House.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Washington [Mr. SAMUEL B. HILL].

Mr. SAMUEL B. HILL. Mr. Speaker, the conferees on the social-security bill have agreed on all of the amendments in controversy except the so-called "Clark amendments", plus an amendment to that amendment known as the "Black amendment."

There were 113 Senate amendments. There are five of those amendments constituting a group known as the "Clark amendments" and to which the House conferees disagreed in conference, and we have brought them back to the House without including them in the conference report. Of the remaining 108 Senate amendments, about 50 percent of them were agreed to by the House, and the Senate receded on about the other 50 percent, with some amendments to certain of those Senate amendments.

Most of the amendments are purely clarifying.

You will appreciate the fact that the drafting service which serves the House also serves the Senate. We pass a bill first, and they have a little more time when they go before the Senate committee to improve the language. Many of the amendments are simply to improve the language. In other words, they are clarifying amendments. I am not going to take your time with those.

There are certain outstanding Senate amendments upon which the conferees of the House have agreed and to which I wish to call your attention. The first of these is the so-called "Russell amendment." You will recall that under the old-age assistance plan, as passed by the House, the Federal Government contributes dollar for dollar to State pension funds to the extent of \$15 per person per month. In order for a State to get any of this Federal contribution, the State must have a State-wide pension plan and must put that plan into operation, and then the Federal Government matches whatever amount the State puts up, to the extent of \$15 per person per month.

The Russell amendment grew out of the fact that certain States have constitutional prohibitions against a State pension plan. So the Senate adopted amendment no. 4, on page 5 of the bill. That amendment, in brief, provides that any State, for a period of 2 years, which does not have a pension plan approved by the social-security board and under which it can secure Federal contribution or Federal assistance, may receive from the Federal Government during that first 2 years, \$15 per person for qualified citizens of a State, qualified under the provisions of the act to receive old-age pensions. For instance, the so-called "Russell amendment" provides that the Federal Government shall contribute the entire amount of pensions to needy aged persons in those States that are not under a State pension plan, and that the amount so paid shall be \$15 per month to each person in such States who can qualify under the provisions of this act.

Mr. TERRY. Will the gentleman yield?

Mr. SAMUEL B. HILL. In just a moment. States that can qualify within that period get only so much, not exceeding \$15 per person, as the States contribute. A State with an approved pension plan may pay to its pensioners or its aged needy a total of \$20 per month. The State in that case would pay \$10 and the Federal Government would pay \$10; but under the Russell amendment, where a State has no plan, the Federal Government would pay the \$15 per month per person in such State.

Mr. TERRY. Will the gentleman yield now?

Mr. SAMUEL B. HILL. I yield.

Mr. TERRY. Under the Russell plan is it the gentleman's idea that those States which are financially unable to contribute to an old-age-pension plan would get the benefit of the Federal allowance up until 1937?

Mr. SAMUEL B. HILL. That was the effect of it, but it grew out of the fact—

Mr. TERRY. It grew out of that fact, but does not the gentleman feel that the people in those States which cannot contribute at this time on account of the depression should be allowed until 1937?

Mr. SAMUEL B. HILL. It simply comes down to a question of whether you are going to have a purely Federal pension fund or a Federal-aid pension fund. If you once adopt that policy you will never get out of it. It is a question for the Congress to determine, as we did determine in passing the original bill, that we would have a Federal assistance plan and not a Federal plan.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. HUDDLESTON. Is it the gentleman's interpretation of the provision agreed upon by the conferees that only those States can participate under that clause which have in their constitutions prohibitions against a pension fund?

Mr. SAMUEL B. HILL. Yes. The amendment that we bring back here is to that effect. In other words, it is applicable only to those States.

Mr. HUDDLESTON. It is applicable only to those States which have a flat prohibition in their constitutions against a pension plan?

Mr. SAMUEL B. HILL. The gentleman is correct.

Mr. HUDDLESTON. Now, may I ask the gentleman this question: Suppose States have in their constitutions tax limitations which forbid the raising of sufficient funds to pay pensions, will States in that category be able to participate?

Mr. SAMUEL B. HILL. Not under this amendment, as I understand it. In fact, they ought not to. They ought to come in with every other State. We have a number of States throughout the United States that will have to enact legislation in order to come under the provisions of this act.

This Russell amendment, as amended at the conference and brought back to you, simply places the State which has a constitutional prohibition against State pension plans on the same basis as all other States which can, under their constitutions, participate in such a plan.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. NICHOLS. I should like to ask the gentleman if his interpretation of the amendment finally placed in the bill by the House conferees in place of section 4 does not do simply this: That if a State has a constitutional prohibition against its legislature enacting legislation to bring the State within the purview of this bill, that under this amendment the State may participate provided some subdivision or subdivisions of the State government match the Federal grants without the State doing it itself.

Mr. SAMUEL B. HILL. The gentleman has stated it very correctly and very concisely.

Mr. NICHOLS. That being true, then this language does not mean that if there is a constitutional prohibition against the legislature passing a law to bring the State within the purview of this bill, that the Federal Government will make these grants without any contribution from the State for a period of 2 years, does it?

Mr. SAMUEL B. HILL. It does not; no.

Mr. NICHOLS. And that is exactly what the Russell amendment did, was it not?

Mr. SAMUEL B. HILL. That is what it did, not only to that class of States but to all other States for a period of 2 years—States which had no State pension plan.

Mr. NICHOLS. In the event the State constitution was silent as to whether the legislature could pass old-age-pension legislation, and assuming the attorney general of the State should hold that by reason of the constitution being silent on the subject that legislation could not be had touching it until such time as the constitution was amended, does the gentleman think that the other subdivisions of the State government down to the county and city could raise the money with which to match the Federal funds?

Mr. SAMUEL B. HILL. That would be a matter left to the interpretation of the board upon the presentation of the law and constitutional provisions.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. PATMAN. Will the gentleman place in the RECORD the names of the States involved?

Mr. SAMUEL B. HILL. Yes; I think I can do it. The gentleman means involved by reason of some State constitutional prohibition?

Mr. PATMAN. Yes.

Mr. SAMUEL B. HILL. I am not certain that I have all the names of the States in mind; there are three or four of them. I understand that Georgia, Florida, and possibly Oklahoma and Texas are the States in question.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. GREEN. It is necessary for these county and city units to make the contribution in order to receive the benefits?

Mr. SAMUEL B. HILL. Oh, yes. Without contribution from within the States there is not going to be any payment of Federal money under this act, as amended.

Mr. GREEN. It must be matched dollar for dollar?

Mr. SAMUEL B. HILL. Yes; dollar for dollar.

Mr. McFARLANE. Mr. Speaker, will the gentleman yield right there?

Mr. SAMUEL B. HILL. Yes.

Mr. McFARLANE. Do I understand that for the next 2-year period the States affected would have to put up any money, or would they get \$15 a month?

Mr. SAMUEL B. HILL. The Federal Government will not pay \$15 to them unless they come through with \$15 either from the State government or some subdivision of the State. They must first put up pension money to be matched by the Federal Government. They will not get any Federal money otherwise.

Mr. GREEN. I mean before this becomes effective.

Mr. SAMUEL B. HILL. That is true.

Mr. MOTT. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

Mr. MOTT. But as to the State which already has an old-age-pension law which may not conform to the Federal requirement, they would have to change their law before they could qualify.

Mr. SAMUEL B. HILL. Unless it is a substantial compliance, unless the law now substantially complies. The fact of the matter is most of the States will have to make some modification of their pension laws to come within the provisions of this bill.

Mr. MOTT. How will the term "substantial compliance" be interpreted?

Mr. SAMUEL B. HILL. That is a matter to be determined by the social security board; but I take it they are not going to split hairs.

Mr. MOTT. They are going to interpret it liberally?

Mr. SAMUEL B. HILL. Yes.

Mr. FERGUSON. Mr. Speaker, if the gentleman will yield, to clarify the situation, under the Russell amendment States would receive up to \$15 a month without financial participation for 2 years. Under the amendment as brought in by the conferees the proposition of matching is still intact as originally provided in the House bill, and dollar for dollar has to be matched when the State participates.

Mr. SAMUEL B. HILL. I will say to the gentleman as a Member of this House you have put back upon your State the responsibility of restoring this matching provision. The money may be contributed by the communities or subdivisions of the State, for instance, but the Federal money must be matched by money within the State to make it possible for them to participate.

Mr. FERGUSON. All this requires is that the State get the money from some source if the constitution prohibits action by the State legislature.

Mr. SAMUEL B. HILL. All this does is to make State participation possible by getting money from some subdivision of the State.

Mr. DUNN of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. SAMUEL B. HILL. I yield.

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 additional minutes to the gentleman from Washington.

Mr. DUNN of Pennsylvania. I wish the gentleman would explain this situation: In the State of Pennsylvania it will be necessary to amend the State constitution before an old-age-pension law can be passed; it is forbidden by the constitution. It would take at least 5 years to amend the constitution.

The legislature has appropriated money to give the aged relief. In the gentleman's opinion, will this bill help the aged of Pennsylvania?

Mr. SAMUEL B. HILL. It will if the counties, or some other subdivisions of the State government, will contribute pension money to match the Federal contribution.

Mr. DUNN of Pennsylvania. It is not a form of pension, because the State constitution forbids it.

Mr. SAMUEL B. HILL. I could not answer, for I do not know what the facts are.

Mr. BOILEAU. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. May I ask the gentleman to explain the situation in the conference agreement with reference to the State pools and the reserves within those States?

Mr. SAMUEL B. HILL. That is the La Follette amendment. The House yielded on the La Follette amendment and it goes in here as passed by the Senate. The gentleman understands what the La Follette amendment is?

Mr. BOILEAU. Yes.

Mr. SAMUEL B. HILL. The House yielded on that matter. I am not going to take more time on the La Follette amendment because it would take longer than I have at my disposal, but I think the House will be pleased to go along with it.

The social security board as provided in the House was an independent agency and the Senate put it under the Department of Labor. The conference report presents an agreement in reference to that matter. The original provision of the House bill is maintained. In other words, the social security board will be an independent agency of the Government.

We have title 10 put in by a Senate amendment, which has to do with pensions for the blind. The provisions of that amendment as agreed to by the House and as included in the conference report are that the needy blind, regardless of age, are under State plans permitted to have Federal assistance, and the Government will match State money to the extent of \$15; in other words, on the same basis as the Federal participation in old-age assistance, except there is no age limit.

[Here the gavel fell.]

Mr. DOUGHTON. I yield the gentleman 5 additional minutes.

Mr. DUNN of Pennsylvania. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Pennsylvania.

Mr. DUNN of Pennsylvania. With reference to pensions for the blind in those States that do not give blind people a pension, may I ask if this bill will help the blind in those particular States?

Mr. SAMUEL B. HILL. It will not, until they adopt pension plans or what we may call "assistance plans."

Mr. DUNN of Pennsylvania. There are only 22 States in the Union that give benefits to the blind. The blind in those States will receive benefits, while the blind in the other States will not.

Mr. SAMUEL B. HILL. Only those States that have provision for the pensioning of the blind will get assistance from the Federal Government under this bill.

The Senate receded in reference to title 11, placed in there by Senate amendment, which provides a pension of \$30 a month for needy Indians, to be paid wholly by the Federal Government. There were many provisions in there that we thought were ill-advised. The legislation was hastily drawn and hastily passed, as we thought, without proper consideration, and while we had a sympathetic interest in the aged and needy Indians, yet we felt that if we were to give them assistance in the form of pensions the matter should have more consideration than had been given the subject and more consideration than could be given the subject in this particular legislation; therefore, the Senate receded, and that title is out.

Mr. DIMOND. Will the gentleman yield?

Mr. SAMUEL B. HILL. I yield to the gentleman from Alaska.

Mr. DIMOND. Is it the gentleman's idea that the bill as drawn applies to Indians as well as other citizens of the United States?

Mr. SAMUEL B. HILL. It does. It is my opinion that aged Indians will receive the same benefits as aged white people or any other aged of the United States, because the Indians are by virtue of an act of Congress of 1924 citizens of the United States and have the same status as any other citizen of our country. Therefore, they are entitled to the provisions of the old-age pension under this title.

Mr. DIMOND. Then the striking out or the elimination of the Senate amendment with respect to Indians does not mean that this bill does not apply to Indians?

Mr. SAMUEL B. HILL. It does not mean that, but it does mean that the bill will apply to Indians, needy, aged, and that they will come under the provisions of title 1.

Mr. Speaker, I yield back the balance of my time.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, may I say at the outset that the conferees on this bill, both on the part of the Senate and the House, have devoted a great deal of attention in a very sincere and practical way to clearing up some great differences which existed in the two bills as passed by the respective bodies. There is but one impasse. We reached the point where the conferees could not compromise or agree in any way or manner in relation to what is known as the "Clark amendment."

The conference report has been explained partially by the gentleman from Washington, and he has made a careful analysis of it for the Members of the House. A little later, I understand, the chairman is agreeable to having the Clark amendment alone discussed in some detail. At that time I shall take the opportunity of speaking in support of the Clark amendment.

The minority members were glad to sign the conference report. While some of us on this side have been opposed to the whole scheme as outlined in this bill, that is water over the dam and no longer a factor. The bill has been accepted in all these details by both branches, and the job of the conferees was simply to straighten out the differences between the two branches and not go to the fundamental principles of the measure. I think the chairman of the committee and his majority colleagues are entitled to a great deal of credit for having brought about this agreement. We of the minority, in our humble capacity, have endeavored as far as we could to cooperate. We could not cooperate, however, so far as the Clark amendment was concerned. Personally, I feel it is of very great importance that we have a very full expression of opinion on the part of the House as to the merits of this particular amendment which, as I previously stated, I will discuss in some detail later. When this bill was up for discussion originally there were many most desirable factors in the bill.

Mr. Speaker, the main purpose of the bill is to secure cooperation on the part of the Federal Government for old-age annuities, old-age pensions, and unemployment insurance. Those are the major factors of the bill, but there are also, if one might say, minor items as well as "window trimmings" to a certain extent which should be taken into consideration. We are aiding in the bill some old matters, namely, public health, vocational training, and maternal and child health.

Then we are setting up in this bill, Mr. Speaker, certain new provisions, namely, aid to dependent children, aid to crippled children, child-welfare services, and pensions for the blind. These are certainly all humanitarian movements and should be given our support.

So the minor items, to my mind, are most desirable, while the major items which I have read are in some respects undesirable. The attitude one must decide in voting for or against the final passage of this bill is whether it is desirable to secure these aids with respect to so-called "minor matters" by voting for other matters that you do not approve of. This leaves us in a very embarrassing position. I want to vote for all of these minor items. I want to vote against the major provisions, because I do not think personally they are matters that the Federal Government should undertake at this time, but, in general, I want to commend to my associates on this side of the House the results of the conference, and, for one, I am very pleased to assure my associates that I approve of the conference report and will gladly support it, aside from the disapproval which I have already stated in discussing the attitude of the majority on the so-called "Clark amendment."

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Speaker, not being a member of the conference committee, I can, with propriety and without being guilty of self-adulation, go further in saying nice things about the conferees than did my good friend, the gentleman from Massachusetts [Mr. TREADWAY], because he is a member of the conference committee.

I took a rather active part in the consideration of this important bill in the House and naturally I followed the work of the conferees closely and I may say to my colleagues on the Republican side that I think we have every reason to be proud of the fairness, candor, honesty, and persistency with which the majority members of the conference, as well as the minority members, pursued their duties in handling this important conference between Members of the House and Members of the Senate.

This is probably the most important and far-reaching measure we have considered in the Congress for many years. By this I mean that it deals with the very bread and butter of more people than probably any other measure that has been before Congress for many years. It deals with the poor and the aged and the blind and with nearly every stressful condition of life that may confront unfortunate people. It provides for the poor widow with her hapless brood of orphans; it seeks out the unfortunate youth whose home life is unhappy and who is irresistibly being drawn into the maelstrom of crime and lawlessness; it seeks to remove the dark cloud of poverty that has loomed up before the last days of many old people, and to plant instead a rainbow of hope that their last days might be happy. It will tell the poor blind man and woman, the most sorely afflicted of all our people, that henceforth they need not hold out their tin cups in their thin, emaciated hands, for the people of the greatest Nation in the world have realized that it is the duty of the fortunate to make provision for the unfortunate.

While this bill indicates an advance in public aid to unfortunates, I would have you realize that this bill is not to be considered as the gift of any person or any administration to these deserving people. Rather it is simply a recognition of the sentiment of the people of the Nation toward our unfortunates. It is a milestone marking the growth of civilization from the date of the first murder that we have any record of when a member of the first human family in defense of his foul deed said, "Am I my brother's keeper?" The human race has traveled far since then, but its course has generally been upward.

The conferees were required to assume the task of resolving 113 amendments. They have discharged this duty with tact and rare sagacity. The inconsequential amendments, such as those of diction and legislative terminology, were soon disposed of. Four or five were of major importance. One was the La Follette amendment. Another was the Russell amendment. Another was restoring authority to the social security board and not dividing it so as to put authority in the Secretary of Labor, where it should not be. Another is the Clark amendment, which has not as yet been composed between the conferees, and which will receive special consideration by the House yet today. Another was the amendment including the blind within the protection of the bill. I shall revert to that a little later. For fear I might forget, I should say to those of you who were interested in the question of the constitutionality of the provisions of this bill and who participated with us in the discussions when the bill was before the House that none of these numerous amendments changes the constitutionality of the bill in the least.

Mr. RICH. Mr. Speaker, if the gentleman will yield, I should like to ask this question: Was this bill submitted to the Attorney General to determine whether it is constitutional or not?

Mr. JENKINS of Ohio. I cannot answer the gentleman as to whether the conferees sought any advice of the Attorney General, and I have no desire to enter into a discussion of the constitutionality of the measure at all in the time allotted me.

Mr. COOPER of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. JENKINS of Ohio. I yield to the gentleman from Tennessee.

Mr. COOPER of Tennessee. The gentleman will recall that that matter was discussed, and as a part of my remarks I inserted the opinion of the Assistant Solicitor General on the bill.

Mr. RICH. As amended?

Mr. COOPER of Tennessee. At the time it passed the House.

Mr. JENKINS of Ohio. Yes; and I, too, referred to the uncertain and indefinite opinion of the Attorney General as to the constitutionality of certain titles of the bill, especially title 2 and title 8.

Mr. Speaker, for the remainder of my time I desire to address myself strictly to the amendment providing for relief to the blind. When this bill was up for consideration by the House I offered an amendment that would include the blind within the warm folds of the relief sections of this bill. This amendment was rejected, not on its merits or demerits but because the poor blind could be pushed aside by the young "brain trusters" who were fathering the bill at that time. The Membership of the House was favorable, but the partisan yoke was fitting much closer then than now. But the Senate has inserted an amendment providing relief for the blind in almost the exact language which was contained in my amendment. In effect the Senate adopted my amendment and the conferees have agreed to it. Those of you who were in favor of my amendment, and for whose assistance in that battle I was profoundly thankful, you may now assure your blind constituents that we have won the day and that they may feel that the flag of hope which they cannot see is flying high today. I thank the conferees in behalf of the thousands of poor blind who must grope their way through a dark world.

The Senate made only one material change in my amendment, and I wish to give them credit for it. This amendment provides that one need not be afflicted with permanent blindness in order to benefit under this law. One afflicted with temporary blindness may be included. This will be controlled by the State laws and the board in charge of the matter, who will issue regulations. Why should not a person 45 years of age, stricken with total blindness or temporary blindness for a few months or a few years, be entitled to the benefits of protection just as much as a man who has reached the age of 65 and who has the possession of his sight? Both need help if they have no means of support. To those of you who are friends of the blind, let me say that this amendment in itself will not give \$15 a month to every needy, blind person in this country. Each State must pass some sort of legislation and must meet the requirements of this bill just the same as the States must meet the requirements of the bill with respect to the aged and the widows and the children in need. Each State must come forward with some constructive legislation that will match the requirements of the Federal Government in order that the blind people in your State may be taken care of.

Mr. MAY. Mr. Speaker, will the gentleman yield?

Mr. JENKINS of Ohio. I shall be pleased to yield.

Mr. MAY. I want to get one matter of information that the gentleman, no doubt, can give me. As I understand this measure as a whole, it is predicated upon the idea of participation by the States with the Federal Government.

Mr. JENKINS of Ohio. Absolutely.

Mr. MAY. Is there any provision whereby in the States, when they fail to comply with the requirements of the Federal Government, the pensioners in that State can be taken care of by the Federal Government?

Mr. JENKINS of Ohio. No. In old age and blind relief the Government contributes only when the State matches the Government. There are some provisions in this bill which provide for Federal contribution without State matching such as health and sanitation relief, but in all the major provisions of this bill State participation is a necessary condition precedent to Government participation. The philosophy of this plan is to put the administration of this class of relief upon the States and thereby hold it as close to the

people as possible. This class of relief is close to the hearts of the people. They should be permitted to administer it under close and strictly drawn regulations. This relief to the blind is intended to make them self-sustaining and to encourage them to feel that they are not unwelcome, but on the other hand that they are recognized as a part of our citizenship and are entitled to encouragement to help balance the natural handicap under which they are constantly placed. The Savior of man had compassion for the blind. Man himself has sympathy for the blind. This bill permits this sympathy to take tangible form. It transforms sympathy into money, which is a very practical guaranty for happiness. [Applause.]

[Here the gavel fell.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. MILLER].

Mr. MILLER. Mr. Speaker, I should like to discuss for a minute the parliamentary situation and the question before us insofar as the Russell amendment is concerned. I do not agree to all that was said by the gentleman from Washington [Mr. SAMUEL B. HILL] as to the effect of the amendment proposed by the conferees. Neither do I agree to the procedure we are following which deprives the House of the right to a separate vote on an amendment as vital as the Russell amendment.

The question presented here is that we must vote the report up or down before the House can express itself as to whether or not they want to adopt and retain the Russell amendment. If we vote the conference report down a motion can then be presented to recede and concur in the Senate amendment, the Russell amendment, which is so vital to some of the States, including Arkansas. If the report is adopted we cannot have a vote on the Russell amendment. Such procedure is not right and in order for us to try to obtain justice for the aged we should vote the conference report down.

It is said that the amendment proposed by the conferees requires contribution on the part of some agency in the State where the State constitution prohibits the passage of participation laws.

Mr. SAMUEL B. HILL. Will the gentleman yield?

Mr. MILLER. I yield.

Mr. SAMUEL B. HILL. It does require the payment.

Mr. MILLER. Where is it so provided?

Mr. SAMUEL B. HILL. Because we did not take it out.

Mr. MILLER. Look at the conference report at the bottom of page 1. It says, "In lieu of the matter proposed to be inserted by the Senate amendment insert the following." What does "lieu" mean?

Mr. SAMUEL B. HILL. The bill, section 3, page 4, provides:

From the sums appropriated therefor the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, an amount which shall be used exclusively as old-age assistance equal to one-half of the total of the sum expended during such quarter as old-age assistance under the State plan with respect to each individual—

And so forth. We do not relieve somebody in the State from putting up the money.

Mr. MILLER. The only agency that could put up anything is the State itself.

The gentleman says that there are a few States in the Union who could not comply because of the constitutional provisions. I do not know how many States there are, but I understand Georgia is one of them. The contention I make is that if a contribution from the Federal Government is justified, it ought to go to all States alike and should not be dependent upon the constitutional provisions of a State nor upon its present ability to match the Federal funds.

They say it is a question of Federal aid or Federal pension. I do not care what you term it. There is no justification for discriminating against a citizen of Oklahoma or Arkansas or anywhere else in favor of a citizen in any other State. This Federal money is being contributed by the Federal Government, and it ought to go to all of the citizens who are eligible, and we ought to have a right to a separate vote

as to whether or not we will accept the Russell amendment and thus do justice to all citizens regardless of where they may live.

Mr. SAUTHOFF. Mr. Speaker, will the gentleman yield?

Mr. MILLER. Yes.

Mr. SAUTHOFF. What have those States the gentleman mentions done within the last 6 months to remove these constitutional obstacles?

Mr. MILLER. I can speak only for Arkansas. We have passed laws to raise money, even to a sales tax.

Mr. SAUTHOFF. What has your State done with regard to the constitutional prohibition?

Mr. MILLER. We have no constitutional prohibition against the enactment of old-age pension laws, and we have enacted such laws, but I know that our eligibles in Arkansas will not receive the sum of \$15 a month from the Federal Government, because our State will not be able to match the funds to that extent. We may be able to make some contribution, but it will be small, and I think we should have the time allowed under the amendment in which to place our State finances in shape to meet the requirements, so that our eligibles in Arkansas will receive the same amount of Federal money as is received by any citizen of any other State. That is all that the Russell amendment does, and it is fair, right, and just, and we should adopt it, or rather should agree to it, as passed by the Senate.

It is not pleasing for me to have to call the attention of the House to the fact that Arkansas will not be able to pay its eligibles a pension of \$15 per month, but I am more concerned in obtaining a pension for our aged than I am in reciting to you the wonderful natural resources that are within our State, because our aged cannot live on these undeveloped natural resources, and they being citizens of the United States are entitled as a matter of right and justice to the same amounts as are citizens living in more populous and wealthy States, and the only way for this discrimination to be avoided now is to adopt the Russell amendment.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Arkansas [Mr. FULLER].

Mr. FULLER. Mr. Speaker, I realize that some of the States are facing a hard proposition to raise money with which to match Federal aid for old-age pensions. I realize that my State is going to be in that condition, but my State has no more rights than any other State in this Union. If Arkansas cannot comply with this law, God knows it ought not to complain and begrudge other States of the benefit. This is equal and just to all. Not only that, but Arkansas can and will comply with this law, and in a substantial manner.

Mr. MILLER. Mr. Speaker, will the gentleman yield?

Mr. FULLER. Yes.

Mr. MILLER. Does the gentleman think that Arkansas is able to contribute \$15 a month to the eligibles under this bill?

Mr. FULLER. It may not be able to contribute that much, but it does not have to contribute any designated amount. The Federal Government contributes and matches any amount paid by Arkansas as a pension up to \$15 per month.

Mr. MILLER. What does the gentleman think that Arkansas can contribute?

Mr. FULLER. Statistics show that Arkansas has 75,000 people over 65 years of age and that less than 15 percent of these are eligible for pensions. At \$10 per person, it would mean that Arkansas would be required to raise \$1,300,000, which amount, being matched by the Federal Government, would pay an average pension of \$20 each. The recent legislature of our State provided for practically \$1,000,000 for this purpose and we can and will raise what is necessary to take care of the eligibles who are in need over 65 years of age. If it should develop that we cannot raise \$10 per person, we can reduce our contribution. In some localities, as is true everywhere, many have never made as much, on an average, as \$10 a month in cash and could very well get along with

much less than \$30 per month. It is true, however, in cities, where rent must be paid, a larger pension should be allowed. This measure is all based upon need, and it is not contemplated that the State and Federal Governments will provide better living conditions than these people have enjoyed during their lives. We cannot afford to kill thrift and ambition. We cannot afford to take the attitude simply because one is 65 years of age that they are going to remain on "flowery beds of ease" by reason of a big pension; this is based wholly and entirely on the theory of helping those who cannot help themselves and can never be construed anything else than a dole.

Mr. MILLER. Do I understand the gentleman to say that a citizen 65 years of age is not entitled to as much as \$10 a month?

Mr. FULLER. I want to say that nobody, simply because 65 years of age, is entitled to any money as a pension; the Government owes no real obligation to give anybody a pension.

Mr. KELLER. Why not? Why are we doing it?

Mr. FULLER. Not as a governmental, legal, or financial duty, but as a humanitarian, social-welfare act to take care of the unfortunate needy—those who cannot take care of themselves.

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. FULLER. Yes.

Mr. VINSON of Kentucky. The legislatures of the respective States will determine the amount of the pension and those who are eligible.

Mr. FULLER. Certainly.

Mr. HUDDLESTON. Is it the gentleman's interpretation of this amendment, in the form reported by the conferees, that if Arkansas should make no contribution, Arkansas will get nothing?

Mr. FULLER. That is right. There are a few States in the Union, two, possibly three, which have a prohibition in their constitutions against using money for this particular purpose. They want until January 1, 1937, to correct this condition, so they can participate and get money for this purpose and receive aid from the Nation. We grant those States that request, with the provision that while the State itself cannot match the Federal money, they cannot get any money for that State unless a county or a municipality or some particular subdivision of the government matches the Federal money. None of this Federal money can go to a State unless matched by the State or a subdivision thereof. I am sorry to have to differ with my colleagues, but I am really chagrined to hear them talk about Arkansas being poverty stricken. Arkansas is not poverty stricken. Arkansas, in natural resources, is one of the most wonderful and rich States in the Union. [Applause.]

I have devoted a greater portion of my life exclaiming the grandeurs and virtues, wealth and undeveloped resources of my State. We proudly boast of Arkansas as the "Wonder State", and I cannot pass unchallenged the statement that we cannot do what other States in the Union can and will do.

In the last few years we have had unprecedented floods and droughts; in addition, we have had a financial depression which is common all over the country. Without these catastrophes we would not be seeking or accepting relief at the hands of the Federal Government. Arkansas is ready, able, and willing, and will, in a substantial way, contribute its portion and take care of its needy over 65 years of age.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas.

Mr. FULLER. We ought not to have any benefit from the Federal Treasury if we do not do our own part. The God's truth of the matter is Arkansas has received approximately \$300,000,000 under this relief program and has paid only a few millions into the Federal Treasury as income taxes. What has happened in my State has happened in a great proportion of the other States of the Union. The time has come when we have to protect the Federal Treasury. We have already gone too far in appropriations for various relief. The time has come to call a halt. This dole must

stop and give the country time to recover. I never thought I would live to see the day when the Federal Government would take the taxpayers' money to pay pensions to the aged; but the time has come, the emergency is here, and we might as well face it. We ought to perform this duty fairly, justly, and equitably, to all alike, and no State or any class of people are entitled to preference over any other. I have no sympathy with the argument that the Federal Government ought to bear all the burden and pay everyone a pension of a certain age and take care of everyone wanting relief. The true test should be to help the needy, those who cannot help themselves, and carry out the spirit of the Good Samaritan and to perform our duty to our neighbor who is in distress.

Every State seeking relief in the way of a pension for its citizens should match what the Federal Government is willing to pay. I realize that in the future we will hear of people running for Congress on the platform that the States should not pay any of this obligation but the Federal Government should pay it all, and in an amount possibly up to \$200 a month. But we all realize that is only political propaganda for the purpose of obtaining office and that it is a burden the Government cannot possibly bear.

Mr. GIFFORD. Will the gentleman yield?

Mr. FULLER. I yield.

Mr. GIFFORD. The gentleman made the statement that there are many people in the State of Arkansas who never averaged \$10 a month. Last year, under Mr. Hopkins, were they not paid the usual 45 cents an hour, and have they not made more than \$10 a month?

Mr. FULLER. Yes. That is true, although those able to work and make more were only paid about \$19 per month. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Arkansas [Mr. FULLER] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I am satisfied the House, when it comes to a vote, is going to do the usual thing and adopt the conference report suggested by the conferees; but you be just advised of what you are doing. There are 18 States in the United States that will not get one cent of the money provided for under this bill.

The distinguished gentlemen of the committee say that no State should be permitted to have any of this money unless they match the money. Well, why not? Where does this money come from? It comes from Federal taxation, does it not? When you gather that money, when you get Federal taxes, you go into every State in the United States and you take it from every individual in the United States. There are no boundary lines; there are no geographical subdivisions which you exempt from the payment of taxes. You collect Federal taxes from all over the United States alike. What is this? This is paying back to people in a certain class the benefits derived from Federal taxes. Then why, in the name of common sense, should you, when you get ready to pay back the benefits of government derived from Federal taxes, set up geographical boundaries or State lines and say, "Old man or old woman, 65 years of age or more, if you live in a State where the constitution will not permit that State to raise funds to match Federal funds, or if you live in a State where the legislature will not pass legislation to permit the State to meet the funds of the Federal Government, or if you live in a State whose ad valorem valuation is so low that they cannot raise money from taxation, then, old man and old woman, American citizen though you may be, old man and old woman, though you have always paid your Federal taxes, because you live in that kind of a State you will be discriminated against by the Federal Government when it gets ready to pass back to the people the benefits of government that you yourselves have helped to build up by the collection and gathering of Federal taxes"? [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Oklahoma [Mr. NICHOLS] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. FERGUSON].

Mr. FERGUSON. Mr. Speaker, sometime ago I wrote every Member of this body explaining the fact that in the Senate was inserted an amendment by Senator RUSSELL that would allow the Social Security Act to actually pay a pension. I urged the Membership of the House to watch this bill closely and vote with me to make this bill actually pay a pension. Now is the time to take this action. I talked to many of you personally on this matter. Now we can keep our word and pass a bill to pay a pension.

You Members who are going home to States where people are not going to receive any pension are going to regret that this day you did not vote down the conference report, with instructions that the Russell amendment be retained. What are you going to do with the people who are writing you every day asking, "When are we going to get the money under President Roosevelt's social-security bill?" That is going to be a hard question to answer. If we are going to take the attitude that the committee has taken, that \$15 a month will bankrupt the Treasury, then this bill is indicted as not being in good faith, because it permits that much if the States will match it. Sometime we are going to be liable for \$15 a month, if the States are able to do what the Federal Government says they can do. We are not asking for a perpetual proposition. For a period of 2 years, under the Russell amendment, States can participate and the people will actually get a pension check, which they will not get under this law as drawn. [Applause.]

In my opinion, under this bill the people of Oklahoma will not receive pensions for at least a year—until such time as we vote to revise our constitution and levy taxes with which to match the funds from the Government. I hope the Membership of this House will not be misled by the substitute offered for the Russell amendment. This substitute only gives other local agencies than the State power to match Government funds until July 1, 1937. I hope, and my firm conviction is, that we will recognize that this is our last opportunity at this session of Congress to actually pay the old people of the Nation in the States that are not qualified to match Government funds, a pension. Let us vote down this conference report and instruct our conferees to accept the Russell amendment as incorporated in the Senate bill, and actually accept the responsibility of paying our old people a pension immediately on the passage of this bill. I shall be severely disappointed if we vote to accept the bill as recommended by the conferees. I know that I shall have to tell the people entitled to a pension in my State that I failed in my efforts to get them the pension they so justly deserve. I am willing to accept the challenge and work on this proposition until the old people of my district are actually receiving pensions.

In the short time allotted me by the Ways and Means Committee I am unable to make my position clear. I am afraid the Membership of the House does not fully understand the position of many States that will receive no pensions. I also fully realize that the efforts on the part of a few Members here today will be of little effect against the powerful political prestige of the Ways and Means Committee. On the whole, I think the Committee has done a good job; but in this I believe they neglected their duty to see that every qualified person in the United States should actually receive a pension. It is with little hope that I urge you to vote for this amendment in the face of such political prestige, but at least I have the satisfaction of stating my convictions on the floor of the House.

The SPEAKER pro tempore. The time of the gentleman from Oklahoma [Mr. FERGUSON] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Speaker, ladies and gentlemen of the House, we have before us for consideration the conference report on H. R. 7260, to provide old-age pensions, and so forth.

This is President Roosevelt's bill, but has been materially amended in the Senate. It came up for consideration in the House on April 15, and at that time I made a speech during the general debate pointing out that the age limit was too

high, and that the President's bill provided no relief for the needy blind or needy crippled people and the inadequacy of the amount and because of the constitutional provisions and financial conditions of many States—the States would not be able to match the Government's money and this would deny pensions to the needy old people in many States and in my State. I also pointed out the inadequacy of the appropriation, and that the amount carried in the bill would not provide more than 80 cents per month for needy old persons in the United States. While the bill was still under consideration, and on April 18, 1935, I offered an amendment (1) to fix the minimum age at 60 years instead of 65, as provided in the President's bill, (2) to provide the same amount of pension for the needy blind and needy crippled as to the needy old people, (3) my amendment also provided that the Government should pay \$25 per month to aged needy persons, needy blind persons, and needy crippled persons in the United States without waiting for any contribution from the States.

This amendment was strongly urged by me, because people 60 years of age or over, under our modern system of machinery and efficiency cannot find gainful employment. People who are poor and blind, or poor and crippled, need a pension just as much as old people. I pointed out that the President's bill provided that no needy old person could get a pension until the States should first pass laws, collect taxes, and match the Government's money. I emphasized the fact that the constitution of many States would have to be changed, and the financial condition of many States was such that the States, including Kentucky, would not be able for a long period of time, if at all, to match the Government's money, and therefore, these needy old people in Kentucky and other States similarly situated would be denied any pension. These needy old, needy blind, and needy crippled people have to have help now, and my amendment provided that the Federal Government, on the passage of this act, should pay each one of them \$25 per month, at least until July 1937, and gives the States time to change their constitutions, pass new laws, and match the Government's money, but the President and the Democratic leaders of the House were opposed to any such amendment, and with their big Democratic majority they were able to defeat my amendment.

The President's bill went to the Senate. The Senate amended President Roosevelt's bill in many particulars. Senator Russell offered and secured an amendment to the bill in the Senate, which provided that the Federal Government would pay a pension to needy persons 65 years of age, or over, until July 1, 1937, without requiring the State to match the Federal Government's money, but in no event could this pension exceed \$15 per month.

INDIANS AND ESKIMOS PREFERRED

The Senate adopted another amendment authorizing the payment of \$30 per month to Indians and Eskimos who had attained the age of 65 years, and whose income was less than \$1 per day, and also provided a pension for Indians or Eskimos who are blind and under 65 years of age the sum of \$10 per month. This would not require any matching and will be paid to these Indians and Eskimos when this measure is enacted into law. I am at a loss to understand why this great preference should be shown to Indians and Eskimos as against white or colored citizens of the United States. If Indians or Eskimos 65 years of age require \$30 per month, and Indians and Eskimos less than 65 years of age, who are blind, require \$10 per month, I cannot understand why aged needy white and colored American citizens 65 years of age and blind persons should not receive equal consideration with the Indians and Eskimos.

CONFEREES CHANGED SENATE AMENDMENT

After the bill passed the Senate, as is provided by the rules of the House and Senate, this measure was sent to conference. The conferees are made up of 5 Members of the House and 5 of the Senate. It is their business to try to reconcile the differences in the bill as passed by the House and as passed by the Senate.

The conferees modified the Senate amendment as to old-age pensions for white and colored citizens, but not as to Indians and Eskimos, and they have submitted a conference report setting forth this change, which is as follows:

Which provides that the State plan for old-age assistance, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

As I understand this amendment as submitted in the conference report, the Senate amendment providing for as much as \$15 per month to needy people 65 years of age or over without State participation is wiped out. Under this conference amendment the Federal Government can only pay a pension to needy people 65 years of age without State participation if the constitution of such State prohibits the State from collecting taxes to provide for old-age pensions. If there is nothing in the constitution of a State prohibiting such State from collecting taxes for old-age pensions, then it must do so and match the Government's money before the Government can contribute any amount to any needy old person in such State. In other words, unless the constitution of Kentucky prohibits the State of Kentucky from collecting taxes for old-age pensions, Kentucky must levy and collect taxes and match the Government's money before anyone in Kentucky can get an old-age pension. On the other hand, if the constitution of Kentucky prohibits the collection of a tax for old-age pensions, then under this amendment submitted by the conferees' report, the Federal Government could pay to needy people in Kentucky, 65 years of age or over, and who are not confined in any institution, a pension not to exceed \$15 per month.

I regret very much that this involved amendment was put into this bill. It should have remained as the Senate passed it, which provided that the Federal Government, until July 1, 1937, could pay a pension amounting to as much as \$15 per month to needy people 65 years of age and over without State participation. Under the conferees' amendment it must now be debated and argued and decided whether or not the constitution of Kentucky prohibits the State of Kentucky from collecting a tax for old-age pensions. Nothing can be done to relieve the needy old people of Kentucky until this is decided, and if it should be decided that the constitution of Kentucky does not prohibit Kentucky from collecting taxes to match the Government's money for old-age pensions, then nothing can be done, and there will be no help for the aged needy in Kentucky until Kentucky passes laws, collects taxes, and matches the Government's money.

These old people need help now, and they need it very much; and I am deeply grieved that my amendment was not adopted. If it had been adopted, in a short time each needy person in Kentucky 60 years of age or over, each needy blind person, and each needy crippled person would begin receiving \$25 per month.

STATE MUST MATCH FEDERAL MONEY

As I have heretofore pointed out, unless the constitution of Kentucky prohibits the collection of taxes to match the Federal money, no needy old person in Kentucky will receive any pension for a considerable time yet. This is true as to needy blind people. There is no provision in the bill for needy crippled people. The House and Senate both turned down my amendment on that, but the Senate did put in an amendment authorizing the payment of pensions to needy blind people, provided the State puts up a like sum.

This bill provides that the Government will match State money, one for two, for pensions for dependent children, needy widows, and needy orphans. This is also true as to vocational training and the public health. Unless the State of Kentucky comes along and passes laws, sets up an organization, and collects taxes to match the Federal money, this legislation will mean nothing to the needy old people, the needy blind people, needy widows, orphans, or dependent children in Kentucky, and this is true as to vocational training for crippled people.

Every citizen of every State in the Union, directly or indirectly, pays taxes into the United States Treasury. The rich States like Pennsylvania and New York, Massachusetts, Ohio, Illinois, and so forth, have provided old-age-pension systems and they are able to match the Federal funds. I am afraid that Kentucky and many other States similarly situated might not be able to match the Federal funds, and therefore we will have the spectacle of the people in the rich States receiving old-age-pension money from the Government and the people in the poor States (where they need the pensions the most) not able to meet the Government's money and not receiving any money from the Government to pay pensions.

As I have pointed out, the people of the poor States will be paying money into the Treasury to provide pensions for those living in the rich States but will themselves receive no pension benefits, and it was this and other circumstances that led me to offer and strongly urge my amendment for the Federal Government to pay each needy old person, each needy blind person, and each needy crippled person \$25 per month without it being matched by the State. In this way, each and every needy old, needy blind, and needy crippled citizen of the United States would be treated alike and the Federal Government would not show any partiality among its citizens; and furthermore I know that these classes of people needed help in these terrible times of depression and they need it now and perhaps will never need it so much as they need it now.

I voted for this bill because it was the best bill we had a chance to vote for. Some day we hope to help amend this law so that it may do substantial justice to all American citizens and so that it will at least not give preference to Indians and Eskimos over white and colored citizens.

Mr. DOUGHTON. Mr. Speaker, I yield the remainder of my time to the gentleman from Kentucky [Mr. VINSON].

Mr. VINSON of Kentucky. Mr. Speaker, those of us who are concerned with legislation affecting the people of this country are, and should be, happy that this legislation is drawing near a conclusion.

Some 20 or more years ago, when a great ocean liner struck an iceberg and it became apparent that all could not be saved, our country was thrilled with the heroic utterance and obedience to the order, "Women and children first." Heroes went to watery graves to carry out this order.

Last year, in June, I think, the President of the United States sent a historic message to the Congress in which he said that with all the hazards and vicissitudes of this modern life, the first objective of government should be security for men, women, and children. A second message came to this Congress on January 17 of this year, asking us to give immediate consideration to this problem of social security.

As a member of the Ways and Means Committee, I shall always be proud of the hours and days I have spent assisting in the preparation of this bill. Let me say to the conferees that, regardless of the work they may do in the future, their work upon this bill will be a star in their crowns. They have brought back to the House of Representatives a real social-security bill. Let me say to the membership of this House that of all the votes you will ever cast, even though there may be certain parts of it with which you do not agree, I predict that you will always be happy and proud of your vote and your participation in this great social-security program.

For the first time in the history of this Nation and in the most comprehensive social program that was ever formulated by a legislative body, unfortunate people are cared for. Unfortunate mothers, unfortunate children, unfortunate blind, unfortunate crippled, unfortunate unemployed, unfortunate aged. In the category of the unfortunates who will be cared for under this legislation we start at the cradle and go to the grave. It is a wonderful program, a program benefiting the people of this country.

There may be those who will say that certain changes should be made, but remember, my friends, every dollar that goes to the unfortunates under this bill will be an additional dollar, one dollar more, to go to them than they would

receive without this legislation. It is a great humanitarian program, a program looking toward benefits to people, providing security, social security, to our unfortunates, from the cradle to the grave.

Mr. DOUGHTON. Mr. Speaker, I move the previous question on the adoption of the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

The SPEAKER. The Clerk will report the first amendment in disagreement.

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent that the amendments in disagreement, nos. 17, 67, 68, 83, and 84, be considered en bloc.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate amendments, as follows:

Amendment no. 17: On page 16, after line 17, insert the following:

"(7) Service performed in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee performing such service has elected to come under such plan; except that if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, the service performed while the employee was under such plan as approved shall be construed to be employment as defined in this subsection."

Amendment no. 67: On page 45, line 2, insert the letter "(a)."

Amendment no. 68: On page 45, after line 9, insert the following:

"(b) The Board shall receive applications from employers who desire to operate private annuity plans with a view to providing benefits in lieu of the benefits otherwise provided for in title II of this act, and the Board shall approve any such plan and issue a certificate of such approval if it finds that such plan meets the following requirements:

"(1) The plan shall be available, without limitation as to age, to any employee who elects to come under such plan: *Provided*, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

"(2) The benefits payable at retirement and the conditions as to retirement shall not be less favorable, based upon accepted actuarial principles, than those provided for under section 202.

"(3) The contributions of the employee and the employer shall be deposited with a life-insurance company, an annuity organization, or a trustee, approved by the Board.

"(4) Termination of employment shall constitute withdrawal from the plan.

"(5) Upon the death of an employee, his estate shall receive an amount not less than the amount it would have received if the employee had been entitled to receive benefits under title II of this act.

"(c) The Board shall have the right to call for such reports from the employer and to make such inspections of his records as will satisfy it that the requirements of subsection (b) are being met, and to make such regulations as will facilitate the operation of such private annuity plans in conformity with such requirements.

"(d) The Board shall withdraw its approval of any such plan upon the request of the employer, or if it finds that the plan or any action taken thereunder fails to meet the requirements of subsection (b)."

Amendment no. 83: On page 55, after line 17, insert the following:

"(7) Service performed by an employee before he attains the age of 65 in the employ of an employer who has in operation a plan providing annuities to employees which is certified by the Board as having been approved by it under section 702, if the employee has elected to come under such plan, and if the Commissioner of Internal Revenue determines that the aggregate annual contributions of the employee and the employer under such plan as approved are not less than the taxes which would otherwise be payable under sections 801 and 804, and that the employer pays an amount at least equal to 50 percent of such taxes: *Provided*, That if any such employee withdraws from the plan before he attains the age of 65, or if the Board withdraws its approval of the plan, there shall be paid by the employer to the Treasurer of the United States, in such manner as the Secretary of the Treasury shall prescribe, an amount equal to the taxes which would otherwise have been payable by the employer and the employee on account of such service, together with interest on such amount at 3 percent per annum compounded annually."

Mr. TREADWAY. Mr. Speaker, before amendment no. 84 is read, may I ask the chairman of the committee if 84 is not a separate matter from the so-called "Clark amendment"? In other words, it is the Black amendment. As I understood it, we were to have up for consideration the

Clark amendment only, whereas this is an amendment to the Clark amendment, known in conference as the "Black amendment." I would ask that this be taken up separately. This was not given very much consideration.

Mr. SAMUEL B. HILL. The Black amendment, which is amendment no. 84, would have no place in the picture at all if it were not for the Clark amendment. It is an amendment to the Clark amendment. It all goes together. You cannot separate them.

Mr. TREADWAY. I realize it is an amendment to the Clark amendment, but the Clark amendment itself stops in the middle of page 56.

Mr. SAMUEL B. HILL. If the Clark amendment should fail there would be nothing at all to which the Black amendment could attach itself, so it is so inseparably connected with the Clark amendment that the two cannot be separated.

Mr. TREADWAY. Mr. Speaker, is it not fair to inquire whether or not the Black amendment, so called, should not be further brought up in conference in order to straighten out what appears to be an unfortunate situation in the prohibition language that it carries? As I understand it, this prevents the director of any insurance company being connected with any of these boards.

Mr. SAMUEL B. HILL. I think the gentleman will agree with me that you cannot find any status or excuse on earth for the Black amendment without the Clark amendment.

Mr. DOUGHTON. I shall move that the House disagree to the Senate amendment.

Mr. TREADWAY. That is my point; if the Black amendment should not go back with the Clark amendment to conference.

Mr. DOUGHTON. Certainly.

Mr. TREADWAY. If that is the situation, it is entirely satisfactory to me. Mr. Speaker, I understand now that the so-called "Black amendment" shall further be considered by the conferees with the Clark amendment.

Mr. SAMUEL B. HILL. No; we are considering it right now in conjunction with the Clark amendment, because it is a part of that amendment, and you cannot separate the two. It has nothing to which to attach itself without the Clark amendment.

Mr. TREADWAY. The Clark amendment could be amended?

Mr. SAMUEL B. HILL. Certainly not. It is a part of the Clark amendment. The Clark amendment with the Black amendment constitutes the full Clark amendment.

Mr. VINSON of Kentucky. Amendment no. 84 is in disagreement. The House has either to agree or disagree to it, and I understand the motion of the gentleman from North Carolina will be to disagree to amendment no. 84, along with the other amendments that are known, strictly speaking, as the "Clark amendment."

Mr. TREADWAY. If amendments nos. 82 and 83 go back to conference, would that include amendment no. 84?

Mr. VINSON of Kentucky. Under the unanimous consent that was presented and agreed to.

Mr. TREADWAY. Eighty-four is inseparable from 82 and 83; therefore, it would go back to conference?

Mr. VINSON of Kentucky. Yes; en bloc.

Mr. DOUGHTON. They are to be considered and acted upon en bloc.

The Clerk resumed the reading of the Senate amendments, as follows:

Amendment no. 84: On page 56, after line 12, insert the following:

"SEC. 812. (a) It shall be unlawful for any employer to make with any insurance company, annuity organization or trustee any contract with respect to carrying out a private annuity plan approved by the Board under section 702, if any director, officer, employee, or shareholder of the employer is at the same time a director, officer, employee, or shareholder of the insurance company, annuity organization or trustee.

"(b) It shall be unlawful for any person, whether employer or insurance company, annuity organization or trustee, to knowingly offer, grant, or give, or solicit, accept, or receive, any rebate against the charges payable under any contract carrying out a private annuity plan approved by the Board under section 702.

"(c) Every insurance company, annuity organization or trustee, who makes any contract with any employer for carrying out a private annuity plan of such employer which has been approved

by the Board under section 702, shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records with respect to such contract and the financial transactions of such company, organization, or trustee as the Board may deem necessary to ensure the proper carrying out of such contract and to prevent fraud and collusion. All such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time, and from time to time, to such reasonable periodic, special, and other examinations by the Board as the Board may prescribe.

"(d) Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$10,000 or imprisonment for not more than 1 year, or both."

Mr. DOUGHTON. Mr. Speaker, I move that the House insist on its disagreement to the Senate amendments which have just been reported by the Clerk.

Mr. TREADWAY. Mr. Speaker, I offer a preferential motion.

The SPEAKER. The gentleman from Massachusetts offers a preferential motion, which the Clerk will report.

The Clerk read as follows:

Preferential motion offered by Mr. TREADWAY: Mr. TREADWAY moves to recede and concur in Senate amendments nos. 17, 67, 68, 83, and 84.

The SPEAKER. The gentleman from North Carolina [Mr. DOUGHTON] is recognized for 1 hour.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Speaker, the motion of the gentleman from North Carolina, the chairman of the committee, means the taking out of the bill which is now under consideration the so-called "Clark amendment."

My motion to recede and concur, which is a preferential motion, means the inclusion of the Clark amendment.

The failure to include the idea in the Clark amendment in the original bill and the failure of the House conferees to concur in the action of the Senate and include the Clark amendment is another indication of the present-day intention of the administration to endeavor to control all business procedure. It is another indication of the concentration in Washington in the hands of the present administration of control over business scattered all over this land.

The Clark amendment was adopted in the other body by a vote of 51 to 35, thus demonstrating its strong sentiment in favor of the purpose which the amendment seeks to accomplish. The proposition was fully discussed from all angles, and all the objections that can possibly be brought forth here were made there.

What is the intent of the Clark amendment? Simply to permit business concerns that for many years have had pension systems of their own, contributed to by employees and employers alike or entirely by employers, to continue this system without the penalty of additional taxation to support some other people's employees; and if we fail to adopt the Clark amendment we penalize these people to the extent that either these private pension systems must be liquidated or else the employers and employees must contribute twice, once to their own system and also to the Government system.

I do not want to ascribe any unfair ideas to the administration, but I think this well illustrates what we have been reading about so frequently in the press in recent times of the desire on the part of those in control of the administration to create an attitude of hostility or opposition to our constitutional government. This is the question involved here, as I see it. We are treading on the thinnest kind of ice when we pass certain features of this bill at all. We have not been able to secure from the judicial authorities of the Government, the Attorney General or others, a definite opinion that this bill will be declared constitutional.

Mr. COOPER of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Certainly.

Mr. COOPER of Tennessee. I am sure the gentleman will recall, upon reflection, that the Assistant Solicitor General of the United States appeared before the committee in executive session and presented an opinion of some 11 pages, and

in my remarks on the bill when it passed the House I included this opinion as a part of my remarks, and it is in the RECORD.

Mr. TREADWAY. Very good; I admit all that, and I still say that the Attorney General's Department has failed to positively say they could support the constitutionality of this bill. This certainly has also been the attitude of the judicial authorities in the conference. There is no question about the very shaky position of the judicial authorities that appeared the other day before the conferees.

Mr. CHRISTIANSON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield to the gentleman from Minnesota.

Mr. CHRISTIANSON. If the Supreme Court should declare this act unconstitutional and in the meantime if employers should liquidate their pension funds, then what will happen to the employees who now receive protection under private pension funds?

Mr. TREADWAY. They will be absolutely out of luck. They will have neither one nor the other and there is no question about that.

Mr. REED of New York. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. REED of New York. And there are some 3,000,000 of them, are there not?

Mr. TREADWAY. As I understand it, the record shows there are 600 private pension funds in various business concerns throughout the country, and as the gentleman from New York states, they employ in the neighborhood of 3,000,000 people who will be absolutely deprived of the protection for which they have been paying over a long period of years.

Mr. REED of New York. And 300 of those private concerns have reserves of over \$700,000,000.

Mr. TREADWAY. Yes; and the Clark amendment calls for the approval of the investment of these funds by the new Social Security Board. The Social Security Board absolutely controls the investment of the private funds. The only thing it does not do is to take them away from the private companies. There must be approval by this new Social Security Board of the investment of these private funds.

Mr. REED of New York. And is it not a fact that many of these large concerns were pioneers in this field and had to take a loss resulting from a long period of experiment in order to properly build up this system?

Mr. TREADWAY. Not only that, if I may interrupt my colleague, but when their business was poor and was not paying as they hoped it might, they nevertheless protected their employees with this sort of fund.

Mr. REED of New York. And is it not also a fact that the benefits given by many of these companies are far greater than what they will get from the Government?

Mr. TREADWAY. I was expecting to refer to that very feature. The Clark amendment provides that the benefits from the private insurance funds must be as good or better than those provided for in this bill. Is not that correct?

Mr. REED of New York. That is correct.

Mr. WOOD. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. I yield to the gentleman from Missouri.

Mr. WOOD. The gentleman just stated that if this law were declared unconstitutional, the people who are now covered by private insurance funds would lose the many millions of dollars they had paid in.

Mr. TREADWAY. No; I did not say they would lose it. Those funds would be liquidated and not lost. However, they would lose the benefit of their anticipated retirement annuities.

Mr. WOOD. The fact of the matter is the employers do not pay into these old-age pension funds operated by private companies except by less wages.

Mr. TREADWAY. Oh, they do; the employers and employees both contribute under one form and the employees only under another form. The gentleman is mistaken about that feature.

Now, I want to refer to some features of this debate. Let me quote from the author of this amendment—Senator CLARK. Senator CLARK said:

The purpose of the amendment is to permit companies which have or may establish private pension plans, which are at least equally favorable or more favorable to the employee than the plan set up under the provisions of the bill as a Government plan, to be exempted from the provisions of the bill and to continue the operation of the private plan provided it meets the requirements of the amendment and is approved by the board set up by the bill itself.

There is the gist of the Clark amendment.

Mr. REED of New York. Will the gentleman yield?

Mr. TREADWAY. Certainly.

Mr. REED of New York. If it is not agreed to by the House, of necessity the private pension plans will either have to be liquidated or the employers will have to pay double rates.

Mr. CHRISTIANSON. The gentleman from Massachusetts is sure that the employers would not continue to contribute to both?

Mr. TREADWAY. No; that is hardly to be expected.

Mr. CHRISTIANSON. If the Clark amendment is not accepted it means the liquidation of the fund.

Mr. TREADWAY. I should assume so.

(The time of Mr. TREADWAY having expired, Mr. DOUGHTON yielded him 10 minutes more.)

Mr. KELLER. Will the gentleman yield?

Mr. TREADWAY. I yield.

Mr. KELLER. If these people pay double, they get double service.

Mr. TREADWAY. Oh, no; I beg the gentleman's pardon. They would not get but one service.

Mr. CRAWFORD. Will the gentleman yield?

Mr. TREADWAY. For a question.

Mr. CRAWFORD. Statistics will show how many of the 600 pensions are holding companies?

Mr. TREADWAY. Oh, I do not know anything about that.

Mr. CRAWFORD. If the question should arise and these were holding companies and they should be decentralized, then what would be the status of the employees—those insured? Assuming that they are not holding companies, what would be the status of the employees at any time?

Mr. TREADWAY. Those assets are in a separate fund, entirely separate from the business carried on by the company. They are under the approval of the new Security Board.

Mr. CRAWFORD. The amount deposited would be, but would they not at that point be in the same status as at the present time, when it is proposed to liquidate them, in the event that this amendment does not carry?

Mr. TREADWAY. If these companies are liquidated and you are an employee of one of these private corporations you would receive your pro rata share in the liquidation, but you would have no further protection under that private system for your old-age insurance, which now you would have.

Mr. THURSTON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. THURSTON. Is there any provision in the bill which would defer liquidation of these plans until the bill is declared constitutional?

Mr. TREADWAY. No. The adoption of the majority motion to insist upon disagreement and strike out the Clark amendment, as I say, sets up the situation which the gentleman from Minnesota [Mr. CHRISTIANSON] just referred to. You will either pay double or you are out of luck. As I said in answer to a question of the gentleman from New York [Mr. REED] there are 600 of these private-plan insurance boards in operation, covering 3,000,000 employees. Three hundred of these covering a million employees are on a reserve basis, with over \$700,000,000 of reserve, and still, without the Clark amendment, we are forcing the liquidation of those companies.

Approximately 150,000 employees are now drawing pensions under private plans, and the average of those who share

under the contributory plan is \$84 per month and the non-contributory \$59 per month.

Mr. KNUTSON. And the gentleman will recall a number of us in committee sought to have a similar provision incorporated in the original bill.

Mr. TREADWAY. I mentioned that at the opening of my remarks. This was brought up in committee and originally voted down, showing the desire, as I stated before, to place all this control of business in the hands of Government officials, who are inexperienced in business—and we know who they are, we know who are going to control this proposition—who have never had a bit of experience in business methods.

Mr. KNUTSON. Some of them hardly dry behind the ears.

Mr. TREADWAY. Now for some of the advantages of the private plans. More liberal benefits are paid. Employees get credit for past service, while under the Federal plan you start in anew. Employees 60 years of age are provided for under the private plan, whereas under the Federal plan they are not. Annuities are paid in true proportion to earnings and service, whereas under the Federal benefit rate they are arbitrary. Many private plans permit joint annuities, giving protection to widows, something not included here.

Mr. Speaker, there is no abler man, perhaps, or better constitutional lawyer in the Senate than the Senator from Georgia [Mr. GEORGE]. Let me quote what he stated in the Senate. He said:

If the Court looks through mere form to the substance of this bill, I assert again that the question of the validity of the bill is one which no responsible lawyer would undertake to say is not in serious question. Hence, why strike down, with the probably unconstitutional bill, the private pension systems and private benefit systems granting benefits to the employees of employers of this country, embracing a large part of our population—why strike those down when a bill is proposed which probably will not pass the muster of the courts?

It seems to me the experience of the past few weeks in getting decisions on the constitutionality of legislation that has been passed by this Congress and the previous Congress, ought to be a caution, an SOS signal to the people who are forcing what is undoubtedly in the opinion of many able lawyers unconstitutional legislation in the provisions of this act.

The employees are fully protected under the Clark amendment. Private plans must be available to all employees without regard to age. Employees may elect whether they will come under the Federal or the private plan. Benefits under the private plan must be equal to or better than the benefits under the Federal plan.

Contributions under the private plan must be deposited with life insurance companies, annuity organization, or trustees approved by the Social Security Board. Termination of employment, whether voluntary or involuntary, constitutes withdrawal from the private plan. Upon an employee's withdrawal from the private plan the employer must pay to the Federal plan an amount equal to the taxes otherwise payable by the employer and the employee, plus 3-percent compound interest. Upon death of the employee his estate shall receive not less than the amount it would have received under the Federal plan.

The Social Security Board may at any time withdraw its approval of the private plan if it fails to meet its requirements. No financial advantage will accrue to employers who may be permitted to retain their private pension system, since they are required to contribute to the private plan not less than they would pay under the Government plan. For this reason, the continuation of the private pension plans will not result in the discharge of the older employees, as some contend.

So far as this argument is concerned, I might add that a private pension plan would cost the employer far more than the amount of taxes he would otherwise pay to the Federal Government. His chief interest in having a more liberal plan is to provide for his relatively older employees. If he expected to discharge these older employees he would not be asking to have his private system continued. The sincerity of the private employers is demonstrated by the fact

that they are now voluntarily paying pensions to about 150,000 superannuated employees.

The argument that the adoption of the Clark amendment will cause titles II and VIII to be held unconstitutional is based upon the theory that it links the two titles together and discloses their true purpose.

As a matter of fact, it has been recognized all the time that titles II and VIII are tied together, and must be so regarded by any court passing judgment on them.

Other provisions of these two titles link them together, such as the sections setting forth those who are neither subject to the taxes or the benefits. Hence the Clark amendment itself would not make titles II and VIII unconstitutional.

The purpose of this bill is to provide security for the aged, and the Clark amendment permits private employers to make more abundant provision for their employees than the Federal Government proposes to make.

The private company method, as included in the Clark amendment, is better for the employees of those 600 companies than is the Federal Government system proposed to be set up in this bill, as to which you are taking a great chance of a decision that it is entirely unconstitutional. If the private pension plans are broken up by this legislation, and the Federal pension plan is later invalidated, the 3,000,000 employees who are now covered by the private plans will be without any protection. In other words, they have everything to lose and nothing to gain under the Federal plan.

I hope, Mr. Speaker, that the Clark amendment will be adopted and that the motion I made to recede and concur will be the action of the House when the vote comes upon it. [Applause.]

The SPEAKER. The time of the gentleman from Massachusetts [Mr. TREADWAY] has expired.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Washington [Mr. SAMUEL B. HILL].

Mr. SAMUEL B. HILL. Mr. Speaker, I think it would be well to see just what this act, in its original form, provided for unemployment compensation, and then to examine the Clark amendment and see how one fits into the other or whether there is conflict between the two.

The act as passed by the House provided for a Federal plan to be financed by the levying of taxes upon the employer and upon the employee measured by the pay roll. This money was to be put into the Federal Treasury. It was to enable the Federal Treasury to finance these old-age benefits. If the money were not obtained in this way, we would have to levy other taxes to provide revenue out of which to finance the old-age benefits. The act as passed by the House provides that a man reaching the age of 65 years and having been employed for 5 years or more under employment that comes within the provisions of the act may at the age of 65 and thereafter receive a certain monthly payment called a "benefit" or "annuity." It is evident to you that a man in middle life or approaching old age, who works for 5, 10, or 15 years at an average salary, will not have been able to contribute by his own contributions and by the contributions of his employer in his behalf a sufficient sum of money to finance the annuity to such retired worker; but under the provision of the act no retired worker will receive less than \$10 a month, regardless of the fact that he may not have earned in the annuity fund more than \$1 a month or even less than \$1 a month. He will get an annuity of \$10 a month if he comes within this provision and has worked 5 or 10 years only.

Under that provision we are paying to that man an unearned benefit. We are going down into the Treasury to get the money that has not been contributed to the Treasury on his behalf, which money must come out of the general fund of the Treasury, paid in there from tax levies. But we have young men and men in middle life in this category of employment. The young men contribute to the fund and their employers contribute to the fund for them, for a period of 20, 25, or 30, and sometimes 40 years. That money goes into the Treasury. Those young men are not drawing money out of the Treasury during those 20 or 30

or 40 years. So we borrow the money from the money that they pay in, in order to pay these benefits to the older men who are retired after a few years' work. Only in that way can we finance the fund. If we do not have that financial support for the fund, then we would have to go out and levy general taxes to put into the Treasury to pay this money. In the course of a few years it will amount to more than a billion dollars a year paid out in benefits. So that the bill, as it left the House financed itself by the young men carrying, for the first few years, the fund out of which the benefits are paid to the older men, thereby saving the Federal Treasury the necessity of going out and levying general taxes to supplement the Treasury funds for the purpose of financing these benefits.

Now, what does the Clark amendment provide? It provides that the employer, whose employees so choose, may set up an independent pension reserve or benefit system, and be relieved from participation in the contribution to the Federal plan. It means that whenever all of the employees of a private industry chose to go under a private plan, they may contribute to a fund set up by the private industry, and no part of that fund shall go into the Federal Treasury. It means, of course, under the provision of the Clark amendment, that the employer and the employee must pay into that private fund an amount equal to that paid into the Federal fund by others who are not under a private plan. It means that when a worker withdraws from a private plan the employer must pay into the Federal Treasury on his behalf the amount of tax previously paid on his account into the private fund, plus 3-percent interest compounded.

It means that in the case of the death of an employee under the private plan his estate will receive the same amount of money from the private pension plan as it would receive from the Federal pension plan, and that is the amount the employee himself has contributed plus 3-percent interest compounded annually. It does not mean that his estate will get what the employee has contributed plus what the employer has contributed, but only the amount the employee has contributed, and that is the same amount the estate would receive under the Federal plan. But here is the difference: Under the private plan the employer keeps whatever the employer himself contributes to the private plan. Under the Federal plan the amount the employer contributes goes into the Federal Treasury to finance the general compensation fund. It means that under the Clark amendment it would be to the financial advantage of the industry maintaining such plan to employ only young men and not to employ old men, to keep in their employment young men, and as men reach middle age to discharge them, because the companies make their money, they earn their benefit fund, from the contributions of the younger men.

Mr. Speaker, my time is exhausted and I shall be unable to discuss further the Clark amendments and the reasons why they should not be adopted. However, under leave to extend my remarks I submit for the RECORD in support of my contention that the so-called "Clark amendments" would totally wreck and destroy the unemployment-compensation provisions of this act, this memoranda prepared for me giving an analysis of the so-called "Clark amendments" and their effects upon this legislation:

HOW THE CLARK AMENDMENT WOULD WORK OUT

1. Under the Clark amendment existing private-pension plans would either have to be abandoned or fundamentally altered.

From the debate it was evident that many Senators voted for the Clark amendment under the impression that its adoption is necessary to save the existing private-annuity plans. It was not appreciated that all private-annuity plans will have to be radically altered even with the Clark amendment in operation. This is true for the following reasons:

(a) None of the existing plans provides for repayment of the entire amount contributed in behalf of an employee upon his withdrawal from employment. The most liberal of these plans provide for the return to the withdrawing employee of the money he has contributed, with interest. Under the Clark amendment the employer will have to pay back taxes with interest, for all withdrawing employees, which, under the assumptions on which this amendment is based will be equivalent, on the average, to repayment of the contributions of both the employer and the employee with interest. The Clark amendment thus places an additional burden on the existing private-annuity plans and this

will necessitate recalculation of their actuarial basis, with either increases in contributions or reductions in benefits.

(b) All existing plans allow annuities only after employment for a relatively long period of time—a majority of them for periods of 20 to 25 years. Such plans certainly cannot be regarded as being as liberal as the Federal old-age-benefit plan. They will, consequently, have to be revised in this respect. This will again affect the financial basis of these plans and necessitate changes in contribution rates or benefits.

(c) Many of the existing plans have no reserve or only very inadequate reserves. Many more are not irrevocably funded.

(d) Many plans do not pay as liberal benefits on retirement as does the Federal plan, even to employees who have long been with the company. Few, if any, plans pay as liberal benefits for employees who are with the company only for periods of less than, say, 20 years.

The changes which the Clark amendment will necessitate in private annuity plans are extensive and fundamental. Without the Clark amendment most employers, as a practical matter, will wish to reorganize their annuity plans, although they are not legally compelled to do so. But it will be no more difficult to reorganize existing private plans to give benefits supplemental to the Federal plan than it is to revise these plans to conform with the Clark amendment.

2. Under the Clark amendment it will be of advantage, both to the older employees and to the employers, for present older employees to come under the Federal old-age-benefits plan, while the younger employees will be covered by the private annuity plans.

The annuities payable under title II are a percentage of the earnings of the employees after the taking effect of the Social Security Act. The percentage of the earnings on which the annuities are based is materially greater where the total earnings are small than where they are large.

Present older employees will have small total earnings because they will be under the system but a few years. They will consequently get much larger benefits than their own contributions and those of their employers would buy from insurance companies.

All private annuity plans are constructed on precisely the opposite principle. Most of them give no benefits at all to employees who have not been in the employ of the company for a very long period of years, most commonly 20 to 25 years. None of them favors employees who are under the system but a short time.

Under the Clark amendment the employees may elect whether they wish to come under the private annuity plan or under the plan of Federal benefits. Since the social-security bill gives such a distinct advantage to employees who are in the system only a short time—as will be at present all employees now past middle age—it is very evident that these employees will elect to come under the Federal plan. It is to their own interest, as well as to that of the employer, that they should do so. Under the circumstances it is almost certain that substantially all employees who are past middle age when the Social Security Act takes effect, or when a new private annuity plan is inaugurated in the future, will come under the Federal system while the younger employees will be covered under the private annuity plan.

3. Under the amendment it will be to the advantage of the employer to hire only men in the younger age groups.

It needs little explanation that the contributions can be less to pay the same annuity to a man who remains in an annuity system a long number of years than to one who remains in the system but a few years. The cost of an annuity of \$1 per annum, beginning at age 65, purchased at insurance company rates, is approximately \$1.8622 at age 22; \$2.1827 at age 27; \$4.2710 at age 47; \$6.4757 at age 57.

With such greater costs for older-age groups, it is very evident that an employer can provide benefits as liberal as those of the Federal plan at a much lower cost, if he pursues the policy of hiring only men in the lower-age groups. Employers do not have to discharge employees when they grow old to get this advantage. All that they have to do is to establish a low hiring age limit. Many employers now have such low hiring age limits. The Clark amendment will very materially increase the tendency toward the adoption of such hiring age limits.

4. Employers with private annuity plans will derive great financial advantage through all deaths of employees before reaching retirement age.

Approximately 75 percent of all persons entering industry die before they reach age 65, which is the retirement age in title II and under most private annuity systems. Whenever an employee dies, his estate is to get, under the Clark amendment, at least as liberal benefits as under title II. Under title II the benefits payable on the death of an employee will on the average equal the contributions made by the employee himself, with 3 percent interest. The estate will not get back the contributions of the employer. In the Federal system the saving which thus results goes to the employees who survive until they reach retirement age. Under the Clark amendment this saving will go to the employer.

5. The Clark amendment will wreck the financial basis of the Federal system.

The taxes collected under title VIII of the Social Security Act will in over a long period of time equal the benefit payments that will have to be made under title II. This actuarial balance, however, will be possible only on the assumption that all industrial workers will be brought within the Federal plan. As has been noted above, the Clark amendment will operate to take out of the Federal plan many of the younger industrial workers, while it will give an excessive percentage of the older workers to the Federal system. Under title II the taxes paid by and for the benefits of

the older workers will not equal the benefits paid to them, while the taxes paid on the earnings of the younger workers will exceed these benefits. Consequently, through covering a large percentage of the younger employees in the private annuity plans, the financial basis of the Federal system will be wrecked. The benefits provided for the older workers can in that event be paid only through increases in the taxes upon employers who remain within the system or through large governmental contributions.

The same effect is produced through the fact that under the Clark amendment the Federal plan will not get the advantage of the employers' contributions in the event of the death of employees before reaching age 65. This will affect approximately 75 percent of all employees who will be brought under the private annuity plans, and will cause an immense loss to the Federal system.

6. This amendment will greatly increase the difficulties of administering titles VIII and II.

Under the amendment not all employees and not all employers of plants having approved private annuity plans will be outside of the Federal system. Employers will have to pay taxes on those of their employees who are not under their private annuity plan. Without private annuity plans, the tax collection is quite simple, as the Treasury has to pay attention only to the total of the employer's pay roll. Under the Clark amendment it will have to check the individual employees on the pay rolls, immensely increasing the difficulties of collection.

Other difficulties result when employees leave the employment of an exempted employer or otherwise withdraw from his private plan. In that event back taxes have to be paid, and these may be due for many years. This involves going into all pay rolls during the period while the withdrawing employees were with the plan, assuming that such pay rolls have been preserved. There is nothing in the amendment, however, to require that the pay rolls shall be kept any particular time, and if pay rolls are no longer available it will be still more difficult to ascertain the back taxes that are due. The great majority of all employees who come into the employment of an exempted employer are certain not to remain within the employment until age 65, so that this problem of computing the back taxes will be one which will recur in many thousands (perhaps millions) of cases annually.

7. Only relatively large plants can set up private annuity plans.

Of the employees covered under existing private annuity plans, 30 percent are with companies that have over 100,000 employees; 70 percent with companies having over 25,000 employees; and 98 percent with companies having over 2,000 employees. A small employer cannot take advantage of the Clark amendment. It is one which in practice will be a special privilege to the large employers only.

RESPECTS IN WHICH THE CLARK AMENDMENT IS EXTREMELY VAGUE

1. It is not clear in this amendment whether the private annuity plans must be as liberal as the system of Federal old-age benefits under title II of the Social Security Act for all employees, regardless of age or length of employment, or only whether the plan must on the average give as liberal benefits as those provided under title II.

This is a very important point. A private annuity plan may very well give more liberal benefits than the Federal plan for the great majority of employees and yet give no benefits at all, or very inadequate benefits, to the older employees and those who are with the company only a very short time. Most of the existing plans give benefits only to employees who have been with the company for 20 to 25 years. To such employees more liberal benefits can be given than under the Federal plan, and yet the effect of such a private annuity system would be to dump all of the relatively short-time employees on the Federal system, and it is for these employees that the annuities under the Federal plan are most costly.

2. There is no requirement that the contributions to the private annuity plan must be irrevocably earmarked for the payment of pensions or that pensions once granted must be continued throughout the life of the pensioner.

The amendment provides that the contributions must be deposited with a life-insurance company, an annuity organization, or a trustee approved by the Board. There is nothing to prevent the employer from terminating his plan at any time; in fact, it is provided that the board shall withdraw its approval of a plan whenever the employer so requests. When this occurs, there is nothing to guarantee that employees already retired will continue to receive their pensions. The employer must pay back taxes for the employees then in his employ, but any balance remaining in his fund belongs to him.

3. No control is vested in the social security board over contracts which the life-insurance companies, annuity organizations, and trustees make with employers maintaining private annuity plans.

The provisions of these contracts are very material for the adequate protection of the rights of the beneficiaries, but it is at least doubtful under the amendment whether the board can refuse to approve a life-insurance company, an annuity organization, or a trustee because it does not believe that the contract made with the employer adequately protects the employees.

4. No safeguards are included which will make it certain that the Government will be able to collect the back taxes which become payable upon withdrawals from the plan or its complete termination.

Withdrawals will occur in a majority of all cases, since most employees do not remain with one employer throughout their entire industrial life. Likewise, there will be numerous instances

in which employers who have established private annuity plans will go out of business or for other reasons discontinue their plans.

For these reasons, it is certain that employers will have to pay large amounts in back taxes. There is no provision in the amendment under which employers are required to set up reserves for the payment of back taxes. The annuity fund must be deposited with a life-insurance company, an annuity organization, or a trustee, but there is nothing in the amendment which provides that the annuity fund shall be available for the payment of back taxes. Further, an annuity fund may be exhausted and no money may be available for the payment of back taxes.

I. FURTHER COMMENTS ON THE CLARK AMENDMENT

1. The Clark amendment provides adverse selection against the Federal system. While the requirement that the employer and employee pay an equal amount of taxes into the private fund prevents the employer from reducing his payments below the level of the taxes, nevertheless, it is almost certain that the Government fund will be loaded with all the older employees and find it impossible to pay the scale of benefits specified out of the taxes provided in title VIII. When a deficit occurs in the future, the rates in title VIII will have to be adjusted upward or the Government will have to subsidize the system out of general-tax revenues.

2. As was pointed out in the debate on the floor of the Senate, this amendment seriously threatens the constitutionality of title VIII. This exemption is wholly different from the other exemptions in the title. It taxes employers who fail to set up an approved annuity system and falls squarely under the language of the Supreme Court in the Child Labor Tax case holding the so-called "tax" in that law a penalty because "it provides a heavy exaction for a departure from a detailed and specified course of conduct of business."

In order to save title VIII from being held unconstitutional, it would appear imperative either to throw out this amendment altogether or to change it from an exemption of the tax to a payment in title II to such employers.

3. There is nothing in the Clark amendment which will effectively prevent employers from placing all their older employees on the Government fund and retaining in their own fund the younger employees. They could even cause employees to change from one fund to another at any future time, if such change became advantageous to their own fund. For example, if one of their employees were due to retire within a short time, and the contributions paid in on his behalf were less than the actuarial equivalent of his annuity rights, he could be induced to elect the Government system. It is almost a certainty that private employers in the future would keep in their own fund only those employees who would be profitable to the fund. In this way these employers and their younger employees would shirk all responsibility for the older employees—even those within the employment of the particular fund. Obviously this will have to be corrected.

4. Under the Clark amendment, practically every employee of a private employer having an approved retirement plan would be entitled, when he retired, to draw two benefits—one from the private plan, one from the Government for employment other than under such employer. Practically no employees would have worked for a single employer for a lifetime. This would result in these employees drawing larger benefits than they would be entitled to if they were under only one system. For example, suppose an employee with an average salary of \$1,000 annually were employed for 10 years in employment under the Government fund and 10 years under a private plan just before retirement. He would be entitled to receive a monthly benefit of \$20.83 from the Government and an equal amount from the private plan, making a total of \$41.66 a month. But if he had remained continuously under either the Government or the private plan, he would be entitled to draw a monthly annuity of only \$29.17. In other words, this employee would receive a pension of \$12.49 per month greater than he would otherwise be entitled to. This would constitute a heavy drain upon both funds. The private employer may escape such extra cost by refusing to employ older persons, who have been previously employed with other employers, but the Government cannot so protect itself.

The results which will inevitably flow from this defect will be the absolute refusal of companies with private plans to employ older or even middle-aged workers, except under the condition that they elect the Government plan. This will be difficult to do. It is prohibited in the law, and the employee will recognize that it is to his advantage under the circumstances to elect the private plan. The result will be a refusal by the employer to take on any but very young employees.

5. The Clark amendment provides a very great incentive for employers with private plans to employ only younger persons and to discharge their older employees. By escaping their just share of the cost of annuities for the older persons, such employers in the future will be able to pay much larger annuities than provided in the Government plan. It is well known that in the long run retirement allowances become a component part of salary. The larger the retirement allowance, the lower the salary which is necessary to pay to retain employees. This is well known. Many illustrations could be cited. Employers with private plans will profit almost as much by being able to pay larger benefits as if they were permitted to reduce their contributions.

Under further leave to extend I here submit, as part of my remarks, the following statement by J. B. Glenn:

ALLOWING THE ADOPTION OF THE CLARK AMENDMENT WOULD RESULT IN AN ULTIMATE COST OF BILLIONS OF DOLLARS TO THE FEDERAL GOVERNMENT

To pay benefits scheduled under title II to those who will be entitled to benefits during the earlier years of the Federal annuity system, the Federal Government will deliberately incur a huge deficit of many billions of dollars. This is chiefly because the older workers will receive in annuities much more than the total taxes paid by them and by their employers on their behalf.

The plan is so designed, however, that this huge deficit is gradually wiped out by the profits the Government will make on the annuities of younger workers. The deficit will be eliminated because the tax paid by the employers of younger workers and by the younger workers themselves will more than suffice to pay the benefits to these young workers.

For example, take the case of a young worker, earning \$100 per month and entering the system in 1949, at 24 years of age. The profit to the Government from his contribution of \$36 per year and his employer's contribution of \$36 per year, will be \$24 per year, because the sum of \$48 per year would be enough to purchase the benefits which he will receive under the bill.

Suppose there are 5,000,000 of these young workers ultimately absorbed in private pension plans. The Federal Government will annually lose \$24 for each such worker in these private plans, or \$120,000,000 per year. This is part of the profit which was calculated to offset the deficit incurred in the earlier years of the plan and to make the plan actuarially sound. The loss of this profit would make it necessary for the Federal Government to make up this sum from other sources in order to meet its obligations under title II.

J. B. GLENN,

Fellow of the Actuarial Society of America, Fellow of the American Institute of Actuaries, Fellow of the Casualty Actuarial Society.

Mr. DOUGHTON. Mr. Speaker, I yield 10 minutes to the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS of Maryland. Mr. Speaker, I must begin by confessing that I have little to contribute after the discussion we have had by Congressman HILL except my deep conviction of the ill wisdom, indeed of the very destructiveness of the Clark amendment. I am not alone in this opinion. May I give you the advantage for a minute of the result of a comprehensive and responsible study of the whole subject of private industrial pension systems? Observe these two large volumes entitled "Industrial Pension Systems." These books represent the investigation of an economist and statistician, Dr. Latimer, who undertook this work, just published in 1933, at the instance of the Industrial Relations Counselors, Inc. This board's purpose, so far as I can gather, would resemble in a general way the Brookings Institution, with whose contributions you are doubtless familiar. Its membership consisted of Raymond B. Fosdick, chairman; William B. Dixon; Ernest M. Hopkins; Cyrus McCormick, Jr.; John D. Rockefeller, 3d; Arthur Woods; and Owen D. Young.

Now, let me read the conclusions of this very elaborate and responsible study:

By and large the bulk of industrial pension plans in the United States and Canada are insecure; first, because of inadequate financing; second, because of lack of actuarial soundness, even in those cases where some funds have been provided; third, because of failure to provide proper legal safeguards both in connection with funds and with the preservation of rights for employees; and, fourth, because of the absence of definite administrative procedure for carrying out the terms of the plans. Unless the policies pursued by most companies at the present time are changed, there is not much hope for improvement (p. 902).

And then a sentence which appears a little farther on in the book:

The voluntary provision of complete old-age security by industry under a business economy in which the criterion of success and the condition of continuous existence is profits, inevitably involves inescapable contradictions (p. 945).

Mr. COLE of Maryland. Mr. Speaker, will the gentleman yield at that point?

Mr. LEWIS of Maryland. I yield for a very brief question.

Mr. COLE of Maryland. As I understand the Clark amendment, it subjects all private retirement systems, both as to conditions of retirement supervision and the investment of the funds to the board created under this act.

Mr. LEWIS of Maryland. That is true, but the fact lacks significance. Such control is of nominal value only after these interests have been allowed to chisel in and appropriate the low-cost employees, leaving the high-cost employees on the Government fund.

If anybody in the United States can speak on this subject with an assurance of sincerity and, indeed, with a high degree of guaranteed knowledge, it is the president of the American Federation of Labor. In a circular letter received this morning, I find him stating:

Labor is very much exercised over this amendment, as it exempts private annuity plans conducted by employers. Anyone who is well acquainted with the reasons for creating these private annuity plans and the suffering that follows could not for a moment approve that amendment.

I jump several paragraphs of his letter:

Now, therefore, in the name of the organized wage-workers of the United States, as well as those unorganized, I wish to appeal to you to vote against incorporating in the social-security bill the Clark amendment.

Mr. VINSON of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Maryland. Yes.

Mr. VINSON of Kentucky. The gentleman has given much thought to this subject. I wish he would discuss, if he will, the effect of the Clark amendment on persons 45 years of age and over.

Mr. LEWIS of Maryland. It is perfectly apparent in entering into any annuity system like this, Mr. Speaker, that those who enter early would need to pay but a very, very small annual subscription to build their annuities payable to them 30 or 40 years later. In the complete wage-annuity system provided by this bill it is also perfectly apparent that those who enter it older would have to pay much larger subscriptions. The bill provides a flat rate of subscription on all to build a fund adequate to take care of young and old.

Under the Senate amendment the employer by "contracting out" with insurance companies could get much lower rates for young employees, with the result that young persons would be preferred for employment. They attempt to meet this self-evident objection by referring to the following proviso in the amendment:

Provided, That no employer shall make election to come or remain under the plan a condition precedent to the securing or retention of employment.

I pronounce this the grand mockery of our age, that the employees are to have the right to elect, forsooth, under the amendment.

Does anybody believe for a moment that it would confer a real power of election upon the laborers of the United States? I have labored myself for many years. There never was a moment in all of my experience when I had the election as to any condition of my employment; and none will be effectually carried here. I do not complain. Doubtless my employers felt they had to have uniform rules, but they made them, and they left me no election. The youngsters now are already under a high preference. You know about the age limit of employability at 45. The youngsters already under preference are going to have their preference magnified. Because as they may cost the employer but 1 percent on wages while the older case 3 percent the older ones are going to be dismissed at the gate.

Mr. Speaker, the working men and women over 45 years of age are already under a deathlike discrimination in the United States today. I had occasion to state the other day that we had started a new class in America, which I christen "America's untouchables."

They are the men, and who without a day in court are rejected and dismissed at the gate because they are 45 years of age. Would you add by this amendment an additional inducement to competing employers to accentuate this monstrous evil even as against those who are now employed? If we cannot do justice to them, let us pity, at least, these old men and women who are thrown on the scrap heap by industry because their arms are no longer strong enough or swift enough to turn its great wheels in the competitive struggle. This is not an amendment intended to reward pioneer employers who, on their motives of humanity, had organized their systems. If that were the motive of the amendment, it

would apply only to a company found conducting such a system on the 1st day of January 1935 and in successful operation for a number of years, which, on qualifying with the Board, might be treated as an exemption. [Applause.]

[Here the gavel fell.]

EQUITY AND JUSTICE IN THE PAYMENT TO THE PHILIPPINE GOVERNMENT FOR LOSSES IN ITS CURRENCY RESERVES

Mr. DELGADO. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein a joint statement to the Senate Committee on Appropriations made by the Philippine Resident Commissioners in the United States.

The SPEAKER. Is there objection to the request of the Resident Commissioner of the Philippine Islands?

There was no objection.

Mr. DELGADO. Mr. Speaker, in connection with the second deficiency bill for the fiscal year 1935, I think all Members of Congress are entitled to know the Philippine government's side with reference to the item of \$23,862,750.78 due said government as part of its currency reserves. For that reason, Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following joint statement of the Philippine Resident Commissioners to the Senate Committee on Appropriations:

To the Chairman and Members of the Senate Committee on Appropriations:

On behalf of the government of the Philippine Islands and the Philippine people whom we have the honor of representing, and agreeable to your suggestion made to us yesterday during our personal appearance before your subcommittee, we respectfully petition your committee to insert in the second deficiency appropriation bill now before you an item of \$23,862,750.78 as payment to the government of the Philippine Islands as part of its currency reserves. This item has been recommended in the Budget submitted by the Treasury and War Departments.

In support of this petition we respectfully urge upon you the equity and justice of this payment, as will be gathered by the following:

PAYMENT PROMISED BY CONGRESS

On June 19, 1934, the President of the United States approved an act known as "Public, No. 419", of the Seventy-third Congress, the pertinent provisions of which follow:

"That the Secretary of the Treasury is authorized and directed, when the funds therefor are made available, to establish on the books of the Treasury a credit in favor of the treasury of the Philippine Islands for \$23,862,750.78, being an amount equal to the increase in value (resulting from the reduction of the weight of the gold dollar) of the gold equivalent at the opening of business on January 31, 1934, of the balances maintained at that time in banks in the continental United States by the government of the Philippine Islands for its gold-standard fund and its treasury-certificate fund, less the interest received by it on such balances.

"Sec. 2. There is hereby authorized to be appropriated, out of the receipts covered into the Treasury under section 7 of the Gold Reserve Act of 1934, by virtue of the reduction of the weight of the gold dollar by the proclamation of the President on January 31, 1934, the amount necessary to establish the credit provided for in section 1 of this act.

The above act was passed as an expression of the American Congress following a complete and exhaustive investigation into the merits of the proposal. We respectfully submit for your consideration a review of the record of the hearing on H. R. 9459 which preceded the enactment of Public, No. 419, Seventy-third Congress, and which hearing was conducted by the House Committee on Insular Affairs.

The bill was reported by the committee of the House and later by the committee of the Senate without a single dissenting vote and was passed by Congress with overwhelming support. No phase of the question was left unexplored by the committees of the House and Senate prior to the passage of that act, and it is noteworthy that not a single witness appeared in opposition to the justice or equity of that proposal. A substantial majority of the Members of the Congress which enacted that measure are Members of the present Congress.

Your petitioners, therefore, feel that unless there are circumstances and conditions to which our attention has not been called which militate against the immediate appropriation of the funds proposed in this congressional act, we are in this petition only asking that the American Congress make the appropriation which it has already authorized in the language of Public, No. 419 "when the funds therefor are made available."

CONDITIONS NOT CHANGED SINCE PASSAGE OF ACT

Since President Roosevelt under date of May 7, 1934, recommended to Congress the authorization of the payment to the Philippine Government no circumstance or condition has changed the basis upon which the President's recommendation was made or the principle underlying the action of Congress in respect thereto.

President Roosevelt's letter addressed to the Chairman of the Senate Committee on Banking and Currency follows:

THE WHITE HOUSE,
Washington, May 7, 1934.

HON. DUNCAN U. FLETCHER,
Chairman Committee on Banking and Currency,
United States Senate, Washington, D. C.

DEAR SENATOR FLETCHER: With the approval of the United States, the government of the Philippine Islands has for many years maintained in banks in this country the major portion of the currency reserves of its monetary system, and has always considered these deposits the equivalent of a gold reserve.

The effect of my proclamation of January 31, 1934, was not only to reduce, in terms of gold, the value of these currency reserves, but indirectly to devalue, in terms of gold, the entire currency circulation of the Philippine Islands. The United States enjoyed an increase in the value of its currency reserves corresponding to the decrease in the value of the dollar.

As the Philippine currency is interlocked with the United States gold dollar under laws enacted by the United States Congress, it would be equitable to reestablish the Philippine currency reserves on deposit in the United States at their former gold value as of January 31, 1934.

I am advised that S. 3530, now under consideration before your committee, is designed to accomplish this purpose.

I recommend its enactment.

Very sincerely yours,

FRANKLIN D. ROOSEVELT.

Everything stated in the letter of the President is just as true today as it was in May 1934. The proclamation of January 31, 1934, did in fact reduce, in terms of gold, the value "of these currency reserves" and did devalue, in terms of gold, the currency circulation of the Philippine Islands. That condition maintains. Nothing has corrected it.

Philippine currency is interlocked with the United States gold dollar, as the President so clearly stated, under laws enacted by the United States Congress, which laws are still in full force and effect.

Nothing has removed any of these conditions upon which the President declared "it would be equitable to reestablish the Philippine currency reserves on deposit in the United States at their former gold value as of January 31, 1934."

SENATE COMMITTEE HAS ACTED

Your attention is respectfully invited to the following portion of the report of the Senate Committee on Insular Affairs in connection with S. 3530, the Senate bill which ultimately became Public, No. 419:

"The experts of our Government have decided that the credit of \$23,868,750.78 is just, equitable, and fair, and the committee feels that no great government can do less than what is proposed in this bill for its dependent people. It is in no wise suggested that any and all funds on deposit in this country to the credit of individuals and the insular government, over and above the funds actually held as currency reserve funds, should be enhanced in value by an act of Congress.

"Coincident with the Independence Act, a refusal on the part of the American Government to meet its moral obligation in readjusting the currency reserves of the insular government, the value of which is interlocked with our own monetary system, is inconceivable. Such refusal would be an omission unworthy of a great Government and of the Congress, on whom this responsibility now rests."

The "moral obligation in readjusting the currency reserves of the insular government" to which the Senate Committee referred, is, in the absence of any changed conditions or circumstances, as compelling today as it was at the time the Senate Committee so conclusively declared its position. There remains only the moral obligation to carry out the moral obligation agreed to.

LOSSES INCURRED BY PHILIPPINE GOVERNMENT

Nothing could be more conclusive as to the factual circumstances surrounding losses to the Philippine government as a result of the President's proclamation than the following comprehensive statement contained in the report of the Senate Committee on Insular Affairs (Rept. No. 1209, 73d Cong.):

"On January 31, 1934, the insular government had on deposit in American banks \$56,276,056.92, a fund constituting the major portion of the currency reserves of the Philippine government, on which the circulation of the insular government is based. This fund, deposited in dollars, has always been considered as the equivalent of gold. Applying the same revaluation as given the United States gold dollar by the proclamation of the President, this fund now amounts to \$95,282,398.87, or an increase, had the fund been in actual gold, of \$39,006,341.95.

"It is obvious that any change in the value of our dollar automatically changes in the same proportion the value of the peso, the standard unit of value in the Philippine Islands. It is also obvious that the Presidential proclamation of January 31, 1934, in effect, expanded the currency reserves of the United States, but contracted the reserves of the Philippine government, since the Philippine reserves are in dollars.

"In a conference between officials of the Treasury Department, the Bureau of Insular Affairs, acting for the Secretary of War, and the Budget officer, it was decided that the full amount of this credit should not be given to the reserve fund of the insular government, but from this \$39,006,341.95 should be deducted \$15,143,591.17, the

interest which has accrued to the insular government since January 1923. This leaves a balance of \$23,862,750.78, which, it is thought by the President and the above-named officials, represents the sum which should be credited to the Philippine government on the books of the Treasury in order to restore the gold value of the Philippine currency reserves as of January 31, 1934.

"When the gold content of the United States dollar was diminished we took credit on our books for approximately \$2,811,013,126. Had the insular government had on deposit on the date of the above-mentioned proclamation gold bullion or actual coins as their currency reserve, there would have been no need for this legislation or any adjustment, for the reason that their gold would have increased in value, as did the United States gold.

"During the fall of 1932 the government of the Philippine Islands made representations to this Government with a view of including specific stipulation in the depository agreements that withdrawal of its currency reserve funds should be in gold coin of the United States at the election of the Philippine government. The Secretary of War through the Bureau of Insular Affairs, acting for this Government, stated that he did not 'deem as expedient the amendment of the depository agreement as suggested by the Philippine government.'

"In March 1933, 10 months prior to the President's proclamation, other representations were made on the part of the Philippine government seeking the assurance that deposits of the Philippine government in the United States stand on an equal basis with the deposits of the United States Government and recommended that all deposits of the insular government, except \$10,000,000 required for ordinary expenses, be deposited in the Treasury of the United States. Under conditions obtaining in this country in 1932 and 1933, the officials of our Government deemed it inadvisable to accede to any of these requests, although the Philippine government had every right to make these requests and to expect them to be granted."

Not only does the above statement of the Senate committee establish the loss to the Philippine government resulting from devaluation, but it clearly establishes the equities involved in the claim of the Philippine government which Congress promptly recognized by the passage of the act of June 19, 1934.

COOPERATION OF PHILIPPINE GOVERNMENT

The Governor General of the Philippine Islands on June 29, 1933, after reviewing the financial and monetary affairs of the Philippine Islands and with a view to future developments in respect thereto, officially requested:

"That our gold standard and Treasury-certificate funds be converted into gold coin of the standard existing at the time these deposits were made with the depository banks; this coin to be deposited in the United States Treasury or Federal Reserve banks and authority of the President secured to earmark it for their account, by amending the Executive order of April 5, 1933 (which was the first order of the President restricting the circulation of gold). There will be, however, no necessity for withdrawing the above-mentioned deposits from the present depository banks at this time if it is possible to obtain Government assurance that conversion into gold of the standard existing as above outlined, may be at a later date."

Here was an expression of the Governor General anticipating those necessary changes which would place the Philippine reserves in a position of security in the face of any subsequent order or proclamation.

Between June 29, 1933, and January 17, 1934, as pointed out in the Senate report, numerous cables were forwarded by the Governor General of the islands expressing the concern of the islands and stressing the necessity for assuring the gold content of the Philippine reserves on deposit in the United States.

These were supplemented on January 15, 1934, by a letter from the acting secretary of finance of the Philippine Islands addressed to the Secretary of War, in which was reiterated the desire of the Philippine Government that its deposits be treated by the United States Treasury as deposits of coined gold.

The request was sent to the Secretary of the Treasury by the Secretary of War on January 17, 1934.

Finally on January 17, 1934, 2 weeks prior to the President's proclamation, the following cable was sent by the Governor General to the Secretary of War:

"Referring to telegram from this office June 29, no. 212, in particular, as well as other previous cables pertaining to Philippine currency. Have you further information relative to earmarking in gold Treasury certificates funds and the gold-standard fund? Believe allotment of gold to these funds on the basis of present gold content is but fair to Philippines, thus granting Philippine government same advantage as United States in reduction of content of gold dollars backing gold-standard fund and Treasury-certificate fund. Am exceedingly anxious to receive definite decision."

All of the above was reviewed in the report of the Senate committee before enactment of the act of June 19, 1934, recognizing the justice and equity of the payment to the Philippine government.

The Senate committee on the basis of circumstances, conditions, and acts as above referred to, concluded its report as follows:

"At any time, following these representations, prior to January 31, 1934, the Treasury Department could have lawfully sold to the Philippine government gold in the amount of their currency reserves on deposit in the United States at the old value of \$20.67 an ounce, or could have authorized the earmarking of gold to be

paid for by the Philippine government with the funds on deposit in the United States. This, however, was not done, although the insular government from time to time has been given assurance by our officials that their interests would be equitably adjusted."

"Our Government, not having acceded to these suggestions and requests, is certainly morally obligated to expand the base of the currency reserves of the dependent government, and to do so without further delay in order to avoid further possible domestic and international financial complications."

"It should be borne in mind that we are dealing in this bill exclusively with the currency reserve funds of the Philippine Islands, and that question should not be confused with the question of individual transactions between the people of the two governments."

"In the case of the Filipino people, they have been forced to take the personal loss—their gold has been turned in, just as was the gold of our own citizens—but no benefits will accrue to them or their government until the value of their gold reserve is re-established by the Government of the United States. In the case of our own citizens, while the individual may not have been credited, nevertheless, the credit goes to the Federal Government or the whole of the American people, each State, of course, having the same currency system as the Federal Government. It is quite certain that if any State had a separate monetary system tied in with the national money by an act of the Federal Government, the government of such a State would undoubtedly have the same rights and equities as are sought to be established by this bill."

"The Philippine National Bank now owns Liberty bonds and other obligations of our Government amounting to approximately \$17,000,000. Likewise, many American securities are held by individual Filipinos. Those obligations will be paid, not in gold, but in legal currency, which means that they will be paid with a devaluated dollar. It should also be stated that the insular government has outstanding bonds of the Manila Railroad payable in pounds, guilders, and Swiss francs. In amortizing these bonds in foreign currencies, due to the difference in exchange as a result of the action of the American Government in revaluing its money, a loss of approximately \$10,000,000 will be sustained by the insular government. Surely no one can fail to see the inequity in a failure of our Government to make the insular government whole in a loss occasioned by our own action."

Your attention is directed to supplemental statements of General Cox, Chief of the Bureau of Insular Affairs, on pages 15 to 23 of the hearings of the House Committee on Insular Affairs on H. R. 9459, and to the statement of Lt. Col. Edward A. Stockton, Jr., of the Bureau of Insular Affairs, as contained in the hearings of the House Committee on Appropriations on the second deficiency appropriation bill (pp. 426-427), and to the statement of Mr. Laylin (ibid.) in support of the equities involved in the claim of the Philippine government, all of which stand undisputed in the record.

CONCLUSION

The loss sustained by the Philippine government is definitely established in the depreciation of its currency reserves level due to the devaluation of the dollar as a result of the President's proclamation in the amount of \$23,862,750.78 after deducting the interest received by it on its deposits prior to January 30, 1934. The loss so incurred would have been avoided had the recommendations of the Philippine government through its designated officials been accepted by the American Government, but which recommendations were not put into effect. When the American Congress was presented with the facts in relation to these matters it solemnly expressed its moral obligation in an act of Congress approved by the President of the United States on June 19, 1934.

Every official of the American Government conversant with or a party to the financial relations of the American Government and the government of the Philippine Islands has recommended the payment of the obligation represented in the claim of the Philippine government.

Your petitioners respectfully submit that in the face of the uncontroverted record, the recommendations of the President of the United States, the recommendations of all public officials conversant with the subject matter, and the solemn act of Congress admitting the moral obligation involved, there is nothing left for the consideration of your committee than the actual appropriation of the item requested.

Conditions and circumstances have not changed. The injury to the Philippine government resulting from the order of the President of January 31, 1934, revaluing the dollar and the equity of the Philippine government to a portion of the "profit" gained by the United States Government as result of the Presidential order, have been clearly established. Your petitioners urgently request your serious consideration of the matters herein related and your favorable action thereon.

Very respectfully submitted.

PEDRO CUEVARA,
F. A. DELGADO,

Philippine Resident Commissioners in the United States.

SOCIAL-SECURITY BILL, 1935

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. MEAD].

Mr. MEAD. Mr. Speaker, I am very much concerned with this amendment, and, as one who has been closely identified with industrial pension plans, I trust that this House will instruct the conferees to reject the so-called "Clark amendment."

The particular reason for my objection to the amendment is that it initiates the Federal system with the worst possible obstacle that we can put in its path. Ever since the creation of the State and private systems there has been a necessary tightening up on the part of industrialists in regard to the appointment of men over 40 years of age. It is a pathetic state to have a constituent of the age of 40, 45, or 50 call on you and tell you his tale of woe as to how he tramped from one industrial plant to another pleading for work, only to be denied the opportunity because his employment would put an increased load on their retirement system. Therefore, for the sake of the aged who are the primary objects of this bill, we ought to eliminate the Clark amendment, and give the Federal system a most appropriate opportunity to display its relative merit.

May I say one other thing from the record? Only 4 percent of the men who are covered by private systems are eventually retired by such systems. Recurring seasonal and cyclical depressions find the aged laid off first. The youthful employees are returned to work first, and in many instances the aged are permanently separated from their jobs and their pensions. Under the Federal system it makes no difference whether you are 20, 40, or 60 years of age, the cost is uniform and does not vary. It would be just as advantageous for an employer in a private plant to employ a man 40 as it would to employ a man 20; but under the system permitted by the Clark amendment it would be to his distinct advantage to employ younger men and to discharge older men. That would be the result of a dual system of pensions.

Private pension plans will have the youth of the country enrolled in their systems, and as men become aged they will have to find a haven of refuge in the Federal plan, and therefore we will be spending more money; we will have the most difficult class to protect, and the private pension plans in protection of their own systems will constantly load the Federal system with the aged workers of the country.

I plead not so much for the pension plan as I plead with you this afternoon for the aged workers of our country; and I say to you, no matter what promises may be made by the proponents of this amendment, the history of our experience with the industrial pension plans during the last quarter of a century indicates that the aged have been penalized and have been taken out of permanent employment and cast upon the scrap heap of life there to depend upon the charity of the Government. Therefore, in justice to the aged and in justice to this plan that we are initiating, let us vote down the Clark amendment and give some hope to the aged, the tragic victims of this machine age. [Applause.]

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. SAUTHOFF].

Mr. SAUTHOFF. Mr. Speaker, I am opposed to the Clark amendment and I trust that the motion now before the House will be voted down.

The main factor for any concern or any employer in considering what particular annuity system he is going to adopt is the cost of the system. The two prime factors in creating cost are, first, the age of the employee, and, second, the wages of the employee. If it is to be within the control of the private employer what system he is to adopt, naturally he is going to try to reduce these two factors so as to make his cost less by, first, cheaper labor, and, second, younger employees. In this way he can shut out the higher paid labor and he can shut out the older men in the industry. This is exactly the same thing that has been worked, and is being worked today, by department stores and chain stores in the hiring of girls. They hire them on a graduated-scale system. If you work 5 years, you get a raise in pay; if you work 10 years, you get another raise in pay; if you work 15 years, you get a third raise in pay; but before they get to the 10-year period they are let out, and a new crop is constantly coming in. Automatically they are debarred from higher increases in pay. Fire them and you are rid of them. This is the answer, and when these girls go out to seek other jobs in other places they cannot find them. As they grow older it becomes increasingly more difficult to secure work, and thereby increases unemployment.

Besides these two main factors, age and wages, there are some other factors which appeal to me and which I hope you will consider. One of these is when an employee quits and gets a better job, or when he is let out and finds other employment, he starts paying in on his new job, but what happens to what he has already paid in on the old job? In many instances, in fact in most instances, these private systems are under trusteeships, and they are not even protected from claims in case of bankruptcy. In one instance in which I was the attorney I attempted to protect such fund as a preferred fund. The court held there was nothing in the contractual relation that made it a preferred fund, and held that it was commingled with the general assets of the bankrupt concern, and was therefore liable to the debts of the bankrupt concern and that this was not a preferred claim.

It has been mentioned here that many of these firms will take up insurance. Of course they will. They will take up insurance for those over 40 and have a private system for those under 40, because there is nothing in the Clark amendment that provides they cannot set up two systems in one plant. They will take the insurance where it does not cost them as much, because all the overhead of the expense of insurance rates will come out of the fund and not out of the employer. Naturally, he is going to take advantage of this fact.

I now want to point out one more thing which appeals to me as being very serious, and this is the powerful weapon in the hands of the employer over the employee. He can coerce and take away from him all the benefits of the Wagner Labor Disputes Act. The emancipation of the laborer, his deliverance from coercion, his right to act as a free agent, as set forth in this Magna Carta of labor—all its benefits would be seriously endangered if we adopt the Clark amendment.

[Here the gavel fell.]

Mr. SAMUEL B. HILL. Mr. Speaker, in connection with my request to extend my remarks I should like to supplement the request by asking that I be permitted to include memoranda analyzing the Clark amendment and illustrating how it would work and also a one-page letter from J. B. Glenn, Fellow of the Actuarial Society of America, on the same subject.

The SPEAKER pro tempore (Mr. BOLAND). Is there objection to the request of the gentleman from Washington? There was no objection.

COMMITTEE ON RULES

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight to file reports from that committee.

The SPEAKER pro tempore. Is there objection?

There was no objection.

In accordance with the permission granted by the House Mr. O'CONNOR submitted the following privileged resolution:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. J. Res. 348, a joint resolution "Authorizing exchange of coins and currencies and immediate payment of gold-clause securities by the United States; withdrawing the right to sue the United States on its bonds and other similar obligations; limiting the use of certain appropriations; and for other purposes." That after general debate, which shall be confined to the joint resolution and continue not to exceed 2 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Banking and Currency, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the joint resolution for amendment, the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

THE SECURITY BILL

Mr. DOUGHTON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. WITHROW].

Mr. WITHROW. Mr. Speaker and Members of the House, I am opposed to the Clark amendment for two reasons. First, because I am of the opinion that it is actuarially unsound, and second, because I am convinced that it will

encourage discrimination against the older employee when he seeks either employment or reemployment.

No plan can be actuarially sound unless all the employees in that industry, both young and old, come under one plan, and unless all of those employees contribute to one fund.

Under the Clark amendment it would be permissible to have not only a private annuity fund, but likewise a portion of the employees of that factory could come under the Federal plan. It naturally follows, owing to the fact that it would be to the advantage of employers, that the older employees would have to come under the Federal plan and to younger employees would choose the private annuity plan. That would result in the younger employees not contributing to the governmental fund, and over a period of years one of two things would happen—either that fund would be depleted or the premiums to be paid would become prohibitive.

We have a number of examples.

I am a member of the railroad brotherhood. I was an officer prior to my election to Congress. We organized an annuity plan that was voluntary. The result was that the only men who chose to come under the plan were the old employees.

The plan had not been working very long before we found that it was a mistake. The result was that the brotherhood lost a number of million dollars, and I sincerely hope that this body will profit by the sad mistakes that we made during those years.

In cases where railroads now have company pension plans to which both employer and employee contribute, it has been our experience that the managements have found reason to lay off employees on one pretext or another, prior to the time they reached a pensionable age. This is not a matter of theory or conjecture. I can cite numerous examples.

Mr. HOUSTON. Will the gentleman yield?

Mr. WITHROW. I yield.

Mr. HOUSTON. What effect would this have on the railroad pension plan?

Mr. WITHROW. It would have no effect at all—none whatever.

Mr. HOUSTON. I understand that, but in the event that we defeat the Clark amendment, as I hope we will, what effect will it have on the present retirement pension plan?

Mr. WITHROW. None at all. Under the Clark amendment it would be to the advantage of the employer to have hired only men in the younger age groups. The cost of an annuity of \$1 per annum, beginning at the age of 65, purchased at insurance company rates, is approximately \$1.86 at age of 22; \$2.18 at age of 27; \$4.27 at age of 47; \$8.47 at age of 57.

With such greater costs for older age groups, it is very evident that an employer can provide benefits as liberal as those of the Federal plan at a much lower cost if he pursues the policy of hiring only men in the lower age groups. Employers do not have to discharge employees when they grow old to get this advantage. All that they have to do is to establish a low hiring age limit. Many employers now have such low hiring age limits. The Clark amendment would very materially increase the tendency toward the adoption of such hiring age limits and preclude older men from securing employment.

I cannot go further with this subject in the limited time allotted to me. However, it is certain that in order for the Government plan to be successful it must include all age groups, and especially the younger age groups, in order to maintain adequate reserves without resorting to prohibitive contributions by employees or huge subsidies from the Government.

The Clark amendment is unsound in every respect.

I urge that it be defeated. [Applause.]

The SPEAKER. The time of the gentleman from Wisconsin has expired.

Mr. DOUGHTON. Mr. Speaker, I trust the House will insist on disagreeing to and vote down what is known as the "Clark amendment." I do not pretend to pass on the

motives of those who favor this amendment. For aught I know they are sincere, but I am sure that the effect of the Clark amendment will be to cripple or destroy this legislation so that its purposes and its objectives will not be accomplished. This debate has demonstrated clearly that there are many who give but lukewarm or half-hearted support to this legislation, who at heart are opposed to it and would be delighted, in fact, overjoyed, if it could be weakened by the adoption of some amendment whereby it would not accomplish the purpose and objectives for which it is designed. If the Clark amendment should be adopted, that means it would throw the burden on the weak, or almost entirely upon the Government, and that of itself, in my judgment, would tend to so weaken the whole plan that it will be of little or no benefit. Under the Clark amendment the employer with a private plan is exempt only when he is administering his plan properly. Otherwise he is not exempt. If the Clark amendment should be adopted, then you will by necessity have to set up a bureaucracy with a large number of employees because the employee under the Clark plan who is not satisfied with the treatment he receives will be coming post haste to Washington to have an investigation of the employer as to whether or not he is carrying out the purposes and requirements of the act. In that way it will require a large number of Government employees and it will build up a bureaucracy in Washington, the number of whose employees it is not possible at this time to forecast. Moreover, if this law is to succeed, it must have two purposes. It must accomplish the purpose for which it is designed, and it must also stand the test of the courts, and everyone who is familiar with this bill, who is qualified to pass a legal opinion, is convinced that if the Clark amendment is adopted, it seriously endangers the constitutionality of the bill.

They say, on the other hand, and my good friend from Massachusetts [Mr. Treadway] contended, that in case the bill should be declared null and void, then the private plan would be destroyed and there would be no protection whatever; but I call his attention to the fact that it is not until 1937 that title VIII is effective, and there will be ample time to have the validity of this act tested in the courts, and if it should fail, then the private plans would still be in existence. So there is no force or potency to that argument.

Mr. DOCKWEILER. As I understand it, under the Clark amendment there is no provision whereby a corporation which wants to have its private pension plan may protect its employees against its own bankruptcy and the fund being dissipated, so that the employees would not get anything.

Mr. DOUGHTON. In many cases that is true. Under the Clark amendment it would not be profitable for older employees to come under private plans. They get favored treatment under the Government plan, and so they would want to stay under the Government plan. The only people who would be covered by private plans would be the younger workers. Thus the Government plan would be left with all the "bad risks", while all the strong contributors would be exempt. Very soon the Government fund would be insolvent, and the entire insurance principle would be destroyed.

Therefore, Mr. Speaker, I am confident the membership of the House will vote down the motion to concur, and further insist on disagreeing to the Clark amendment. [Applause.]

The SPEAKER. The time of the gentleman from North Carolina has expired. All time has expired.

Mr. DOUGHTON. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question now is on the motion of the gentleman from Massachusetts to recede and concur in the Senate amendment.

The question was taken—

Mr. DOUGHTON. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 78, nays 268, not voting 83, as follows:

[Roll No. 132]

YEAS—78

Allen	Darrow	Holmes	Ransley
Andresen	Dirksen	Hope	Reed, Ill.
Andrew, Mass.	Ditter	Jenkins, Ohio	Reed, N. Y.
Arends	Dondero	Kahn	Rich
Bacharach	Duffy, N. Y.	Kinzer	Rogers, Mass.
Bell	Eaton	Knutson	Ryan
Blackney	Ekwall	Lehlbach	Short
Boehne	Engel	Lord	Snell
Brewster	Fish	McLean	Taber
Buckbee	Focht	Marshall	Taylor, S. C.
Carlson	Gifford	Martin, Mass.	Thurston
Cavichia	Goodwin	Merritt, Conn.	Tinkham
Christianson	Guyer	Michener	Treadway
Church	Gwynne	Millard	Wadsworth
Claiborne	Halleck	Mott	Wigglesworth
Cole, Md.	Hancock, N. Y.	Peterson, Ga.	Wilson, Pa.
Cole, N. Y.	Hancock, N. C.	Pettengill	Wolfenden
Costello	Hess	Pittenger	Woodruff
Crowther	Hoepfel	Plumley	
Culkin	Hoffman	Powers	

NAYS—268

Adair	Dunn, Pa.	Lambertson	Robertson
Amle	Eagle	Lambeth	Robinson, Utah
Arnold	Eckert	Lanham	Robson, Ky.
Ayers	Edmiston	Larrabee	Rogers, N. H.
Barden	Ellenbogen	Lee, Okla.	Rogers, Okla.
Beiter	Evans	Lemke	Romjue
Biermann	Faddis	Lesinski	Rudd
Binderup	Farley	Lewis, Colo.	Russell
Bland	Ferguson	Lewis, Md.	Sanders, La.
Blanton	Fiesinger	Lucky	Sanders, Tex.
Bloom	Flannagan	Ludlow	Sandlin
Boileau	Fletcher	Lundeen	Sauthoff
Boland	Ford, Calif.	McAndrews	Schaefer
Boylan	Ford, Miss.	McClellan	Secret
Brennan	Frey	McCormack	Seger
Brooks	Fuller	McFarlane	Shanley
Brown, Ga.	Fulmer	McKeough	Sirovich
Brunner	Gambrill	McLaughlin	Sisson
Buchanan	Gasque	McMillan	Smith, Conn.
Buck	Gassaway	McReynolds	Smith, Va.
Buckler, Minn.	Gearhart	Mahon	Smith, Wash.
Burdick	Gehrmann	Mansfield	Smith, W. Va.
Caldwell	Gilchrist	Mapes	Snyder
Cannon, Mo.	Gingery	Marcantonio	South
Cannon, Wis.	Goldsborough	Martin, Colo.	Spence
Carmichael	Granfield	Mason	Stack
Carpenter	Gray, Ind.	Massingale	Steagall
Cartwright	Gray, Pa.	Maverick	Stefan
Castellow	Green	May	Stubbs
Celler	Greenway	Mead	Summers, Tex.
Chandler	Greenwood	Meeks	Tarver
Chapman	Greever	Merritt, N. Y.	Taylor, Colo.
Citron	Gregory	Miller	Taylor, Tenn.
Clark, N. C.	Griswold	Mitchell, Ill.	Terry
Coffee	Hamlin	Mitchell, Tenn.	Thom
Colden	Harlan	Monaghan	Thomason
Colmer	Hart	Montague	Thompson
Connery	Harter	Moran	Tonry
Cooley	Healey	Moritz	Truax
Cooper, Tenn.	Higgins, Mass.	Murdock	Turner
Cox	Hildebrandt	Nelson	Turpin
Cravens	Hill, Ala.	Nichols	Umstead
Crawford	Hill, Knute	Norton	Utterback
Crosby	Hill, Samuel B.	O'Connor	Vinson, Ga.
Cross, Tex.	Hobbs	O'Day	Vinson, Ky.
Crowe	Hook	O'Leary	Wallgren
Cullen	Houston	O'Malley	Walter
Cummings	Huddleston	O'Neal	Warren
Daly	Hull	Palmisano	Wearin
Dear	Imhoff	Parks	Weaver
Deen	Jacobsen	Parsons	Welch
Delaney	Jenckes, Ind.	Patman	Werner
Dempsey	Johnson, Okla.	Patterson	West
DeRouen	Johnson, W. Va.	Patton	Whelchel
Dickstein	Jones	Pearson	White
Dies	Kee	Peterson, Fla.	Whittington
Dietrich	Keller	Pfeifer	Wilcox
Dingell	Kennedy, Md.	Pierce	Williams
Disney	Kennedy, N. Y.	Polk	Wilson, La.
Dobbins	Kenney	Rabaut	Withrow
Dockweiler	Kerr	Ramsay	Wolcott
Dorsey	Kloeb	Ramspeck	Wolverton
Doughton	Kniffin	Randolph	Wood
Doxey	Kocialkowski	Rayburn	Woodrum
Drewry	Kopplemann	Reece	Young
Driver	Kramer	Reilly	Zimmerman
Duncan	Kvale	Richardson	Zioncheck

NOT VOTING—83

Andrews, N. Y.	Burnham	Doutrich	Gillette
Ashbrook	Carter	Driscoll	Haines
Bacon	Cary	Duffey, Ohio	Hartley
Bankhead	Casey	Dunn, Miss.	Hennings
Beam	Clark, Idaho	Elcher	Higgins, Conn.
Berlin	Cochran	Englebright	Hollister
Bolton	Collins	Fenerty	Johnson, Tex.
Brown, Mich.	Cooper, Ohio	Fernandez	Kelly
Buckley, N. Y.	Corning	Fitzpatrick	Kimball
Bulwinkle	Crosser, Ohio	Gavagan	Kleberg
Burch	Darden	Gildea	Lamneck

Lea, Calif.	Montet	Sabath	Starnes
Lloyd	O'Brien	Sadowski	Stewart
Lucas	O'Connell	Schneider	Sullivan
McGehee	Oliver	Schuetz	Sutphin
McGrath	Owen	Schulte	Sweeney
McGroarty	Perkins	Scott	Thomas
McLeod	Peyser	Scrugham	Tobey
McSwain	Quinn	Sears	Tolan
Maas	Rankin	Shannon	Underwood
Maloney	Richards	Somers, N. Y.	

So the motion to recede and concur was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Corning (for) with Mr. Johnson of Texas (against).
 Mr. Bolton (for) with Mr. Sullivan (against).
 Mr. McLeod (for) with Mr. Lucas (against).
 Mr. Cooper of Ohio (for) with Mr. Starnes (against).
 Mr. Stewart (for) with Mr. Fitzpatrick (against).
 Mr. Hartley (for) with Mr. Somers of New York (against).
 Mr. Perkins (for) with Mr. Gavagan (against).
 Mr. Fenerty (for) with Mr. Buckley of New York (against).
 Mr. Thomas (for) with Mr. Schneider (against).
 Mr. Doutrich (for) with Mr. Burch (against).
 Mr. Bacon (for) with Mr. Berlin (against).
 Mr. Andrews of New York (for) with Mr. Sabath (against).

General pairs:

Mr. Rankin with Mr. Kimball.
 Mr. Cochran with Mr. Carter.
 Mr. Scrugham with Mr. Burnham.
 Mr. Sears with Mr. Maas.
 Mr. Sutphin with Mr. Higgins of Connecticut.
 Mr. Oliver with Mr. Collins.
 Mr. McSwain with Mr. Englebright.
 Mr. Crosser of Ohio with Mr. Tobey.
 Mr. Montet with Mr. Quinn.
 Mr. Sweeney with Mr. Eicher.
 Mr. Schuetz with Mr. Tolan.
 Mr. Haines with Mr. Kelly.
 Mr. Bulwinkle with Mr. Lloyd.
 Mr. Bankhead with Mr. Casey.
 Mr. McGehee with Mr. Driscoll.
 Mr. Clark of Idaho with Mr. O'Brien.
 Mr. Beam with Mr. Richards.
 Mr. Fernandez with Mr. Gildea.
 Mr. Kleberg with Mr. Underwood.
 Mr. Gillette with Mr. Hennings.
 Mr. Schulte with Mr. Scott.
 Mr. Duffey of Ohio with Mr. Owen.
 Mr. Sadowski with Mr. Dunn of Mississippi.
 Mr. Darden with Mr. O'Connell.
 Mr. Maloney with Mr. Carey.
 Mr. Lamneck with Mr. McGroarty.
 Mr. Brown of Michigan with Mr. Lea of California.
 Mr. Lea of California with Mr. Ashbrook.

The result of the vote was announced as above recorded.

The SPEAKER. The question now recurs on the motion of the gentleman from North Carolina [Mr. DOUGHTON] that the House insist upon its disagreement to the Senate amendments.

Mr. DOUGHTON. Mr. Speaker, I ask for the yeas and nays.

Mr. SNELL. Mr. Speaker, I ask for the yeas and nays. The yeas and nays were ordered.

The question was taken; and there were—yeas 269, nays 65, not voting 95, as follows:

[Roll No. 133]

YEAS—269

Adair	Clark, N. C.	Doughton	Goldsborough
Amle	Coffee	Doxey	Granfield
Arnold	Colden	Drewry	Gray, Ind.
Ayers	Cole, Md.	Driver	Gray, Pa.
Barden	Colmer	Duffey, Ohio	Green
Beiter	Connery	Duncan	Greenway
Biermann	Cooley	Dunn, Miss.	Greenwood
Binderup	Cooper, Tenn.	Dunn, Pa.	Greever
Bland	Cox	Eagle	Gregory
Blanton	Cravens	Eckert	Griswold
Boehne	Crawford	Edmiston	Hancock, N. C.
Bolleau	Crosby	Ellenbogen	Harlan
Boland	Cross, Tex.	Ellenbogen	Hart
Boylan	Crosser, Ohio	Faddis	Harter
Brennan	Crowe	Farley	Healey
Brown, Ga.	Culkin	Ferguson	Higgins, Mass.
Brunner	Cullen	Fiesinger	Hildebrandt
Buchanan	Cummings	Flannagan	Hill, Ala.
Buck	Daly	Fletcher	Hill, Knute
Buckbee	Deen	Ford, Calif.	Hill, Samuel B.
Buckler, Minn.	Delaney	Ford, Miss.	Hobbs
Burdick	Dempsey	Frey	Hoepfel
Caldwell	DeRouen	Fuller	Hook
Cannon, Mo.	Dickstein	Fulmer	Houston
Cannon, Wis.	Dies	Gambrell	Huddleston
Carpenter	Dietrich	Gasque	Hull
Castellow	Dingell	Gearhart	Imhoff
Celler	Disney	Gehrmann	Jacobson
Chandler	Dockweiler	Gilchrist	Jenckes, Ind.
Chapman	Dorsey	Gingery	Johnson, W. Va.

Jones	Marcantonio	Rayburn	Taylor, Tenn.
Kee	Martin, Colo.	Reece	Terry
Keller	Mason	Reilly	Thom
Kennedy, Md.	Massingale	Richardson	Thomason
Kennedy, N. Y.	Maverick	Robertson	Thompson
Kenney	May	Robinson, Utah	Tonry
Kerr	Mead	Robison, Ky.	Truax
Kloeb	Meeks	Rogers, N. H.	Turner
Kniffin	Merritt, N. Y.	Rogers, Okla.	Turpin
Knutson	Miller	Romjue	Umstead
Kocalkowski	Mitchell, Ill.	Russell	Utterback
Kopplemann	Mitchell, Tenn.	Sabath	Vinson, Ga.
Kramer	Monaghan	Sadowski	Vinson, Ky.
Kvale	Montague	Sanders, La.	Wallgren
Lambertson	Moran	Sanders, Tex.	Walter
Lambeth	Moritz	Sandlin	Warren
Lanham	Murdock	Sauthoff	Wearin
Larrabee	Nelson	Schaefer	Weaver
Lea, Calif.	Norton	Secrest	Welch
Lee, Okla.	O'Connor	Seger	Werner
Lemke	O'Day	Shanley	West
Lesinski	O'Leary	Sirovich	Whelchel
Lewis, Colo.	O'Malley	Sisson	White
Lewis, Md.	O'Neal	Smith, Conn.	Whittington
Luckey	Owen	Smith, Va.	Wilcox
Ludlow	Palmisano	Smith, Wash.	Williams
Lundeen	Parks	Smith, W. Va.	Wilson, La.
McAndrews	Parsons	Snyder	Withrow
McClellan	Patman	South	Wolcott
McCormack	Patterson	Spence	Wolverton
McFarlane	Patton	Stack	Wood
McKeough	Peterson, Fla.	Steagall	Woodrum
McLaughlin	Pierce	Stefan	Young
McMillan	Polk	Stubbs	Zimmerman
McReynolds	Rabaut	Summers, Tex.	Zioncheck
Mahon	Ramsay	Tarver	
Mansfield	Ramspeck	Taylor, Colo.	
Mapes	Randolph	Taylor, S. C.	

NAYS—65

Allen	Dirksen	Jenkins, Ohio	Reed, Ill.
Andresen	Ditter	Kahn	Reed, N. Y.
Andrew, Mass.	Dondero	Kinzer	Rich
Arends	Ekwall	Lehlbach	Rogers, Mass.
Bacharach	Engel	Lord	Ryan
Bell	Fish	McLean	Snell
Blackney	Focht	Marshall	Taber
Brewster	Gifford	Martin, Mass.	Thurston
Carlson	Goodwin	Merritt, Conn.	Tinkham
Cavichia	Guyer	Michener	Treadway
Christianson	Gwynne	Millard	Wadsworth
Church	Halleck	Mott	Wigglesworth
Claborne	Hancock, N. Y.	Peterson, Ga.	Wolfenden
Cole, N. Y.	Hess	Pettengill	Woodruff
Costello	Hoffman	Pittenger	
Crowther	Holmes	Powers	
Darrow	Hope	Ransley	

NOT VOTING—95

Andrews, N. Y.	Corning	Johnson, Tex.	Quinn
Ashbrook	Darden	Kelly	Rankin
Bacon	Dear	Kimball	Richards
Bankhead	Dobbins	Kleberg	Rudd
Beam	Doutrich	Lamneck	Schneider
Berlin	Driscoll	Lloyd	Schuetz
Bloom	Duffy, N. Y.	Lucas	Schulte
Bolton	Eaton	McGehee	Scott
Brooks	Eicher	McGrath	Scrugham
Brown, Mich.	Englebright	McGroarty	Sears
Buckley, N. Y.	Fenerty	McLeod	Shannon
Bulwinkle	Fernandez	McSwain	Short
Burch	Fitzpatrick	Maas	Somers, N. Y.
Burnham	Gassaway	Maloney	Starnes
Carmichael	Gavagan	Montet	Stewart
Carter	Gildea	Nichols	Sullivan
Cartwright	Gillette	O'Brien	Sutphin
Cary	Haines	O'Connell	Sweeney
Casey	Hamlin	Oliver	Thomas
Citron	Hartley	Pearson	Tobey
Clark, Idaho	Hennings	Perkins	Tolan
Cochran	Higgins, Conn.	Peyser	Underwood
Collins	Hollister	Pfeifer	Wilson, Pa.
Cooper, Ohio	Johnson, Okla.	Plumley	

So the motion was agreed to.

The Clerk announced the following additional pairs:

On this vote:

Mr. Sullivan of Texas (for) with Mr. Corning (against).
 Mr. Sullivan (for) with Mr. Bolton (against).
 Mr. Lucas (for) with Mr. McLeod (against).
 Mr. Starnes (for) with Mr. Cooper of Ohio (against).
 Mr. Fitzpatrick (for) with Mr. Stewart (against).
 Mr. Somers of New York (for) with Mr. Hartley (against).
 Mr. Gavagan (for) with Mr. Perkins (against).
 Mr. Buckley (for) with Mr. Fenerty (against).
 Mr. Schneider (for) with Mr. Thomas (against).
 Mr. Burch (for) with Mr. Doutrich (against).
 Mr. Berlin (for) with Mr. Bacon (against).
 Mr. Bloom (for) with Mr. Hollister (against).
 Mr. Pfeifer (for) with Mr. Short (against).
 Mr. Brooks (for) with Mr. Eaton (against).
 Mr. Rudd (for) with Mr. Wilson of Pennsylvania (against).

General pairs:

Mr. Rankin with Mr. Kimball.
 Mr. Cochran with Mr. Carter.

Mr. Scrugham with Mr. Burnham.
 Mr. Sears with Mr. Maas.
 Mr. Sutphin with Mr. Higgins of Connecticut.
 Mr. Johnson of Oklahoma with Mr. Plumley.
 Mr. Cartwright with Mr. Tobey.
 Mr. Carmichael with Mr. Andrews of New York.
 Mr. Oliver with Mr. Collins.
 Mr. McSwain with Mr. Englebright.
 Mr. Montet with Mr. Quinn.
 Mr. Sweeney with Mr. Elcher.
 Mr. Schuetz with Mr. Tolan.
 Mr. Haines with Mr. Kelly.
 Mr. Bulwinkle with Mr. Lloyd.
 Mr. Bankhead with Mr. Casey.
 Mr. McGehee with Mr. Driscoll.
 Mr. Clark of Idaho with Mr. O'Brien.
 Mr. Beam with Mr. Richards.
 Mr. Fernandez with Mr. Gildea.
 Mr. Kleberg with Mr. Underwood.
 Mr. Gillette with Mr. Hennings.
 Mr. Schulte with Mr. Scott.
 Mr. Darden with Mr. O'Connell.
 Mr. Maloney with Mr. Carey.
 Mr. Lamneck with Mr. McGroarty.
 Mr. Brown of Michigan with Mr. McGrath.
 Mr. Gassaway with Mr. Ashbrook.
 Mr. Pearson with Mr. Duffy of New York.
 Mr. Nichols with Mr. Hamlin.
 Mr. Dear with Mr. Dobbins.

The result of the vote was announced as above recorded.

A motion to reconsider the vote by which the motion was agreed to was laid on the table.

LEGISLATIVE INFORMATION

Mr. LEHLBACH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD. Sometime ago I secured from the Legislative Reference Service in the Library a summary of all acts dealing with compacts between States, pursuant to the constitutional provision on that subject. It has been suggested to me that this information should be made available to the Membership.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. LEHLBACH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following acts of Congress authorizing or ratifying agreements between States for the benefit of Members of Congress:

LIBRARY OF CONGRESS,
 Washington, March 21, 1935.

HON. FREDERICK R. LEHLBACH,
 House of Representatives, Washington, D. C.

DEAR SIR: In response to your request of March 16 for information as to how many times Congress has been called on to take action in connection with agreements between the States, I am sending with this a copy of a typewritten summary of "Acts of Congress authorizing or ratifying agreements between States", prepared by Mr. W. C. Gilbert, a member of the staff of the Legislative Reference Service.

Very respectfully,

H. H. B. MEYER,
 Director Legislative Reference Service.

Joint resolution of May 12, 1820 (3 Stat. 609, V). Kentucky and Tennessee. Ratification of agreement made on February 2, 1820, to adjust and establish the boundary line.

Act of June 28, 1834 (4 Stat. 708-711). New York and New Jersey. Ratification of agreement made on September 16, 1833, and confirmed by the State legislatures, relating to boundary line, jurisdiction of fisheries, etc.

Act of February 15, 1848 (9 Stat. 211, ch. 10). Missouri and Arkansas. Confirmation of boundary line surveyed by State commissioners and ratified by acts of Arkansas, December 23, 1846, and Missouri, February 16, 1847.

Act of January 3, 1855 (10 Stat. 602, ch. 20). Massachusetts and New York. Consent to cession of district of "Boston Corner" to New York made by Massachusetts, act of May 14, 1853, and accepted by New York by act of July 21, 1853.

Act of February 9, 1859 (11 Stat. 382, ch. 28). Massachusetts and Rhode Island. Attorney General directed to consent to an adjustment of the boundary dispute before Supreme Court by a line agreed on by the parties and confirmed by decree of court.

Joint resolution of February 21, 1861 (12 Stat. 250, no. 9). Arkansas, Louisiana, and Texas. Assent to acts of State legislatures, past or future, looking to removal of "raft" from Red River.

Joint resolution of March 10, 1866 (14 Stat. 350, no. 121). Virginia and West Virginia. Recognition of transfer of Berkeley and Jefferson Counties to West Virginia, "and consent thereto."

Act of March 3, 1879 (20 Stat. 481-483). Virginia and Maryland. Ratification of award in the boundary dispute made on January 16, 1877, by arbitrators appointed under authority of State laws, and confirmed by the legislatures.

Act of April 7, 1880 (21 Stat. 72, ch. 49). New York and Vermont. Ratification of cession by Vermont in adjustment of

western boundary near Fair Haven, made by act of November 27, 1876, and accepted by New York on March 20, 1879.

Act of February 26, 1881 (21 Stat. 351-352). New York and Connecticut. Consent to agreement of December 8, 1879, settling the boundary line. See also act of January 10, 1925, below.

Act of October 12, 1888 (25 Stat. 553, ch. 1094). Connecticut and Rhode Island. Consent to agreement of March 25, 1887 (confirmed by Connecticut on May 4, 1887, and by Rhode Island on May 5) settling the sea boundary.

Act of August 19, 1890 (26 Stat. 329-333). New York and Pennsylvania. Consent to agreement of March 26, 1886, settling the boundary line.

Act of July 24, 1897 (30 Stat. 214, ch. 12). South Dakota and Nebraska. Consent to compact signed June 3-7, 1897, settling part of boundary line between Clay County, S. Dak., and Dixon County, Nebr.

Joint resolution of March 3, 1901 (31 Stat. 1465, no. 19). Tennessee and Virginia. Consent to cession of north half of main street between Bristol, Va., and Bristol, Tenn., to Tennessee (made by act of Virginia, Jan. 28, 1901, and accepted by act of Tennessee, Feb. 9, 1901).

Act of March 1, 1905 (33 Stat. 820, ch. 1295). South Dakota and Nebraska. Approval of compact (date not given) establishing boundary south of Union County, S. Dak.

Act of January 24, 1907 (34 Stat. 858-861). New Jersey and Delaware. Consent to agreement of March 21, 1905, defining jurisdiction over Delaware River, including a provision for concurrent legislation affecting fisheries.

Joint resolution of January 26, 1909 (35 Stat. 1160, no. 4). Mississippi and Louisiana. Authorization of compact fixing boundary line and settling criminal jurisdiction upon the Mississippi River.

Joint resolution of January 26, 1909 (35 Stat. 1161, no. 5). Mississippi and Arkansas. Authorization of compact fixing boundary line and settling criminal jurisdiction upon the Mississippi River.

Joint resolution of February 4, 1909 (35 Stat. 1163, no. 7). Tennessee and Arkansas. Authorization of compact fixing boundary line and settling criminal jurisdiction upon the Mississippi River.

Joint resolution of June 7, 1910 (36 Stat. 881, no. 31). Missouri and Kansas. Authorization of compact fixing boundary line and determining criminal jurisdiction upon the Missouri River.

Joint resolution of June 10, 1910 (36 Stat. 881, no. 32). Oregon and Washington. Authorization of agreement to fix boundary on Columbia River by mutual cessions.

Joint resolution of June 22, 1910 (36 Stat. 882, no. 34). Wisconsin, Illinois, Indiana, and Michigan. Authorization of compact (between any two or more States) determining criminal jurisdiction on Lake Michigan.

Act of March 1, 1911 (36 Stat. 961, ch. 186, sec. 1). General consent "to each of the several States * * * to enter into any agreement * * * with any other State or States" for conservation of forests or water supply.

Act of October 3, 1914 (38 Stat. 727, ch. 315). Massachusetts and Connecticut. Consent to establishment of a boundary line "heretofore agreed upon" under acts of Massachusetts, March 19, 1908, and Connecticut, June 6, 1913.

Act of August 8, 1917 (40 Stat. 266, sec. 5). Minnesota and North and South Dakota (or any two of them) authorized to make agreements for improvement of navigation and control of floods on boundary waters and tributaries; execution to be with approval and under supervision of Secretary of War.

Act of April 8, 1918 (40 Stat. 515, ch. 47). Oregon and Washington. Ratification of compact for protection of fish in Columbia River, etc. (requiring joint approval of any change in laws), approved by Oregon (Laws 1915, ch. 188, sec. 20) and by Washington (Laws, 1915, ch. 31, sec. 116).

Act of September 13, 1918 (40 Stat. 959). Wisconsin and Minnesota. Ratification of mutual cessions of territory, and consequent change of boundary. (Wis. 1917, ch. 64; and Minn. 1917, ch. 116.)

Act of July 11, 1919 (41 Stat. 158, ch. 11). New York and New Jersey. Consent to compact authorized by New Jersey (Laws, 1918, chs. 49, 50) and New York (Laws, 1919, ch. 70; and General Laws, 1919, ch. 178), providing for construction, etc., of tunnel under Hudson River.

Joint resolution of March 4, 1921 (41 Stat. 1447, ch. 176). North and South Dakota, Minnesota, Wisconsin, Iowa, and Nebraska (or any two of them) authorized by compact to determine jurisdiction over boundary waters.

Joint resolution of June 30, 1921 (42 Stat. 104, ch. 38). Pennsylvania and Delaware. Ratification of reestablishment of boundary line (Newcastle circle) agreed to by Pennsylvania (act of June 22, 1897) and by Delaware (act of Mar. 28, 1921).

Act of August 19, 1921 (42 Stat. 171, ch. 72). Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming. Consent to negotiation of an agreement (not later than Jan. 1, 1923), for an apportionment of the waters of the Colorado River and its tributaries—subject to approval by legislature of each State and by Congress. An agreement was reached under this authorization, dated November 24, 1922, which was ratified by each of the States except Arizona, during the year 1923. In view of the failure of Arizona to ratify, the other six States, at the 1925 sessions, waived the requirement of approval by all seven; and Congress, in the Boulder Canyon Project Act of 1928, ratified it as thus modified (45 Stat. 1064, sec. 13-a).

Joint resolution of August 23, 1921 (42 Stat. 174-180). New York and New Jersey. Consent to agreement of April 30, 1921

(under provisions of New York Laws 1921, ch. 154, and New Jersey Laws 1921, ch. 151), for the development of the Port of New York Authority—phrased as a supplement to agreement of 1834, noted above.

Joint resolution of July 1, 1922 (42 Stat. 822-826). New York and New Jersey. Consent to supplemental agreement for development of port of New York, contained in New York Laws 1922, ch. 43, and New Jersey Laws 1922, ch. 9.

Joint resolution of September 22, 1922 (42 Stat. 1058). Kansas and Missouri. Consent to compact contained in a resolution of Missouri, April 15, 1921, and of Kansas, March 18, 1921, by which the States mutually exempted the municipal waterworks of Kansas City (Kansas and Missouri) from taxation.

Act of January 10, 1925 (43 Stat. 731-738). New York and Connecticut. Consent to agreement of January 3, 1911 (Conn.) and March 15, 1912 (N. Y.) redesigning the entire boundary—said agreement having been duly ratified and "congressional approval" authorized by said States.

Act of January 29, 1925 (43 Stat. 796-798). Colorado and New Mexico. Consent to compact for equitable distribution of waters of La Plata River, signed November 27, 1922, and ratified by Colorado, act of April 13, 1923, and by New Mexico, act of February 7, 1923.

Act of March 4, 1925 (43 Stat. 1268, ch. 534). Washington, Idaho, Oregon, and Montana. Consent to negotiation of compact (not later than Jan. 1, 1927—extended to Dec. 1, 1927, by 44 Stat. 247 ch. 129, and to December 31, 1930, by 44 Stat. 1403, ch. 382) for apportionment of water supply of Columbia River and its tributaries—subject to subsequent approval by each State and by Congress.

Act of March 8, 1926 (44 Stat. 195-201). Colorado and Nebraska. Consent to South Platte River compact, signed on April 27, 1923, and approved by Colorado, act of February 26, 1925, and by Nebraska, act of May 3, 1923.

Act of July 3, 1926 (44 Stat. 831, c. 754). Idaho, Wyoming, Washington, and Oregon. Consent to negotiation of compacts for apportionment of waters of Snake River, subject to ratification by each State and by Congress.

Act of February 26, 1927 (44 Stat. 1247). South Dakota and Wyoming. Consent to negotiation of compacts for apportionment of waters of Belle Fourche and Cheyenne Rivers, subject to ratification by each State and by Congress.

Joint resolution of February 16, 1928 (45 Stat. 120-128). New York and Vermont. Consent to "enter into the . . . compact executed by the commissioners duly appointed . . . pursuant to authority" of chapter 321 of the Laws of 1927 of New York, and Act No. 139, Vermont 1927; and "each and every part and article thereof be, and the same is hereby, ratified, approved, and confirmed."

Joint resolution of March 10, 1928 (45 Stat. 300-303). Wisconsin and Michigan. Consent to enter into compact relating to construction and maintenance of bridge over Menominee River, executed by commissioners on January 14, 1927, under authority of chapter 87, Wisconsin Statutes and Michigan Laws 1925, no. 354 and 1927, Spec. Act No. 98.

Act of December 21, 1928 (45 Stat. 1058, ch. 42). Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming. In addition to the ratification of the Colorado River compact in section 13, as noted above, the Boulder Canyon Project Act in section 4 authorized Arizona, California, and Nevada to make an agreement regarding apportionment of water; and in section 19 authorized the seven States mentioned to negotiate supplemental compacts for the development of the Colorado River.

Joint resolution of March 1, 1929 (45 Stat. 1444, ch. 448). Oklahoma and Texas. Consent to negotiation of compact (apparently to be formulated by the President) relative to title to lands transferred under authority of the case of *Oklahoma v. Texas* (272 U. S. 21). Such compact to be ratified by the States and by Congress.

Act of March 2, 1929 (45 Stat. 1502, ch. 520). Colorado and New Mexico. Consent to negotiation of compact for apportionment of water supply of Rio Grande, San Juan, and Las Animas Rivers; subject to approval by States and by Congress.

Act of March 2, 1929 (45 Stat. 1502, ch. 521). New Mexico, Oklahoma, and Texas. Consent to negotiation of compacts for apportionment of water supply of Rio Grande, Pecos, and Canadian or Red Rivers; subject to approval by the States and by Congress.

Act of March 2, 1929 (45 Stat. 1503, ch. 522). New Mexico and Oklahoma. Consent to negotiation of compacts for apportionment of water supply of Cimarron River and any other streams in which jointly interested; subject to approval by States and by Congress.

Act of March 2, 1929 (45 Stat. 1517, ch. 537). New Mexico and Arizona. Consent to negotiation of compacts for apportionment of water supply of Gila and San Francisco Rivers and other streams in which jointly interested; subject to approval by the States and by Congress.

Act of March 2, 1929 (45 Stat. 1517, ch. 538). Colorado, Oklahoma, and Kansas. Consent to negotiation of compacts for apportionment of Arkansas River and other streams in which jointly interested; subject to approval by the States and by Congress.

Act of April 10, 1930 (46 Stat. 154, ch. 130). Oklahoma and Texas. Consent "to any agreements or compacts that have heretofore been or may hereafter be entered into" relating to construction and maintenance of bridges over the Red River.

Act of June 17, 1930 (46 Stat. 767-773). Colorado, New Mexico, and Texas. Approval of Rio Grande compact, signed February 12, 1929, and approved by Colorado, act of April 29, 1929; by New Mexico, act of March 9, 1929; and by Texas, act of May 22, 1929.

Act of January 19, 1931 (46 Stat. 1039, ch. 41). Consent to negotiation of compacts with respect to boundary line—subject to approval by the States and by Congress.

Act of June 9, 1932 (47 Stat. 292, ch. 224). Kentucky and Indiana authorized, through their highway commissions, to enter into "cooperative agreements" relating to the construction, maintenance and operation of bridge over Ohio River near Owensboro.

Act of June 9, 1932 (47 Stat. 294, ch. 225). Kentucky and Illinois authorized through their highway commissions, to enter into cooperative agreements relating to construction, etc., of bridge over Ohio River near Cairo.

Act of June 14, 1932 (47 Stat. 308). Pennsylvania and New Jersey. Consent to compact signed July 1, 1931, relating to operation and maintenance of bridge over Delaware River between Philadelphia and Camden.

Joint resolution of May 29, 1933 (48 Stat. 105). Kansas and Missouri. Consent to compact approved by Missouri (Laws 1933, p. 474) and Kansas (Laws 1933, p. 379), relating to bridge over Missouri River near Kansas City.

Act of June 6, 1934 (48 Stat. 909, ch. 406). Consent "to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime", etc.

NOTE.—Attention should perhaps be directed to the act of April 19, 1930 (46 Stat. 224, ch. 194) by which Congress authorized the State Highway Board of Georgia to cooperate with the State Highway Department of South Carolina in construction and operation of a bridge across the Savannah River at Augusta, Ga. Such cooperation might very well involve some written agreement as to terms and conditions; so that in substance the situation might not be very different from the act, e. g., of June 9, 1932, noted above, where the words "cooperative agreements" were used. The question might then be raised whether the congressional sanction in such cases is not simply on the ground that an interstate stream is involved; it might be argued that such a working agreement, not affecting the territorial sovereignty of the States, is not within the scope of compacts requiring ratification by Congress.

Notice may also be taken of the half-way cases, where the United States has negotiated with individual States, e. g.:

Act of March 21, 1934 (48 Stat. 453, c. 72), providing for a commissioner to act in conjunction with a commissioner on the part of Virginia, and a third selected by these two, in determining the District of Columbia-Virginia boundary—their recommendations to be subject to ratification by Congress and Virginia; or

Act of June 15, 1858 (11 Stat. 310), authorizing commissioners on the part of the United States to act with commissioners on the part of Texas in surveying the boundary between Texas and the Territories of the United States. The boundary thus established, between Texas and the public-land strip, and Texas and New Mexico, was confirmed by act of March 3, 1891 (26 Stat. 971). And an attempted modification by New Mexico, on the formation of the State, was declared of no force and effect by joint resolution of February 16, 1911 (36 Stat. 1454).

A still different situation occurred in the case of Virginia and Kentucky. By an act of December 18, 1789, Virginia authorized the erection of the district of Kentucky into a new State. That act provided that "all private rights, and interests of lands within the said District derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed State, and shall be determined by the laws now existing in this State." This compact was ratified by the convention which framed the constitution of Kentucky and was incorporated into that constitution. The act of Congress for the admission of Kentucky (Feb. 4, 1791, 1 Stat. 189) contained no express reference to the subject; and in *Green v. Biddle* (8 Wheat. 1) it was argued that the compact was invalid because made without the consent of Congress, contrary to the Constitution, article I, section 10. But the Supreme Court, after observing that the Constitution "makes no provision respecting the mode or form in which the consent of Congress is to be signified" and that the question in such cases is, "has Congress, by some positive act, in relation to such agreement, signified the consent of that body to its validity?" Found in the preamble to the act of 1791, with its reference to the act of Virginia of 1789 and the convention in Kentucky, sufficient indication, under the circumstances, of an assent to the terms of separation set out in the Virginia proposal—including the "compact" in question.

SPANISH COLONIAL MISSIONS

Mr. DEMPSEY. Mr. Speaker, I ask unanimous consent to file a supplemental report on House Joint Resolution 211, to create a commission to study and report on the feasibility of establishing a national monument, or monuments, in the territory occupied by the Spanish Colonial Missions in the States of Texas, New Mexico, Arizona, and California.

The SPEAKER. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

EXPLANATION OF VOTE

Mr. BOLAND. Mr. Speaker, I wish to announce that my colleagues, Mr. BERLIN and Mr. HAINES, are unavoidably absent. Were they present, they would have voted "no" on the Treadway motion and would have voted "aye" on the Doughton motion.

MODERN PROBLEMS OF LAW ENFORCEMENT

Mr. CONNERY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks by printing a speech of J. Edgar Hoover. I made this request yesterday, but under the rules of the Joint Committee on Printing, anything over two pages must be referred to the Joint Committee on Printing for an estimate. I have complied with that.

Mr. O'MALLEY. Reserving the right to object, what is the speech about?

Mr. CONNERY. It is a speech on crime. It is a speech made by J. Edgar Hoover at Atlantic City. I wish a copy of it could be in every home in the United States.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONNERY. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address of J. Edgar Hoover, Director Federal Bureau of Investigation, United States Department of Justice, before the convention of the International Association of Chiefs of Police at Atlantic City, N. J., July 9, 1935:

May I say with a great deal of pardonable pride that I look forward, throughout the year, to this appearance which I annually make before the International Association of Chiefs of Police. When mutual problems arise, I feel that I can save discussion of them for such a time as this and talk over these difficulties with men who themselves are familiar with such obstacles. In doing so, I know that I need make no lengthy explanations for a proper basis of understanding. I know that we stand upon a common ground. I know that I speak to my own people.

Therefore, this is not a speech. It is a discussion at a stated meeting place where men of experience get together to make use of that experience; a straight-from-the-shoulder facing of facts as we know they must be faced. Here, at this meeting, a criminal is understood to be a criminal, with a gun in his hand and murder in his heart. It is not necessary here, in discussing what shall be done with that human rat, to persuade some altruistic soul that he is not a victim of environment or circumstances or inhibitions of malformed consciousness, to be reformed by a few kind words, a pat on the cheek and freedom at the earliest possible moment.

I feel that here I am bulwarked among friends, all of us sworn to stand against a group of dangerous enemies, who consistently attack efficient law-enforcement. So that there be no misunderstanding, let me list those enemies, call them by name: they are the criminals themselves and their friends and allies who are engaged of their own free will in the business of attempting to make crime pay. They are the shyster lawyers and other legal vermin who consort with criminals, guide them in their nefarious acts, hide them away after the crime is committed, use the blood money of law-breaking to bribe witnesses, dissemble evidence and, when possible, convert the judge and jury to a miscarriage of justice.

Beyond this, there is the legal shyster in law-making who, in meetings of bar associations and legislatures, cries out against every statute which aids the law-enforcement officer and works with fanatical zeal for laws which will hamper him. He orates loudly and blatantly upon the preservation of the constitutional rights of the criminal jackal and totally ignores the sacred and human rights of honest citizens. He is backed by the politician, crooked and otherwise, who is willing to trade the property, the well-being, the security, and even the lives of law-abiding persons for ballots spawned in prison cells, and the support of gutter scum. The bullets of the underworld are today poisoned by the verdigris of politics. The law-enforcement officer who seeks to do his duty has no weapon which can combat this venom, once it has been allowed to spread through the arteries of a community; there is no armor which can turn its vicious penetration.

Indeed, it would seem that such enemies were numerous enough and deadly enough without the addition of even a vaster army of antagonists. But there are more, and they are the ones who today form the greatest handicaps of all in the field of law enforcement. I refer to the sob sisters, the intruders, the uninformed and misinformed know-it-alls, the sentimentalists, and the alleged criminologists who believe that the individual is greater than society, that because any criminal can display or simulate even the slightest evidence of ordinary conduct, then, indeed, he must be a persecuted being, entitled to be sent forth anew into the world to again rob and plunder and murder. Why is it that these sentimentalists never think of the human wreckage left in the paths of such marauders? Why do they weep over the murderer and remain dry eyed at the thought of his slaughtered victim? Why must a man be thought good merely because he says he is good, when the facts of his career point to a constant succession of acts antagonistic to the peace and well-being of a community? I refer to the countless thousands of unregenerate criminals who, through the subversive acts of convict lovers, have been turned loose to prey anew upon communities often defenseless because the law-enforcement machinery has been lulled into the belief that these men were still in prison, when in truth they have been secretly released to again go forth upon a new series of depredations.

The time has come when we must look upon all persons who designedly or otherwise help the criminal as being enemies to society. There can be no middle ground. The sob sister who weeps over a kidnaper, and who through a desire for notoriety influences public opinion in favor of mercy for that foul body snatcher, is to my mind little better than the persons who must be punished for having aided, abetted, or harbored him. The fuss budget busybody who spends his or her time, for purposes of self-aggrandizement and a name as a philanthropist, in reducing the already too short sentences of rapists, murderers, kidnappers, and other outlaws, interferes seriously with the proper procedure of justice. The shyster who passes laws for the good of the criminal is no better than his professional brother who hides that criminal; the politician who stuffs his parasitical being upon the fruits of underworld votes is as much a type of vermin as the scum which casts its ballots according to his dictation. The time has come for all of us to look upon them for what they are—enemies to our cause and enemies to society.

To fight this concerted group entails a tremendous job—that of absolute and unflinching cooperation, not only between law-enforcement bodies, but within those bodies. The greatest ally of the criminally minded is looseness of method, bickerings between enforcement agencies, jealousies within organizations. Let us remember this, let us work toward the end that after all we are an army of many segments but with one goal—the protection of society and of ourselves.

For that reason, I like to think of the Federal Bureau of Investigation of the United States Department of Justice not only as an arm of the United States Government but as an agency, maintained by and for each and every State, every county, every cross-roads. There has been much publicity recently about the so-called "G men." Naturally our Bureau is proud of certain achievements. However, allow me to say that the results obtained could not have been realized without the whole-hearted and thorough cooperation of law-enforcement agencies spread throughout the length and breadth of America. To all of you I therefore express my deep gratitude and my pride that with the steady growth of cooperation between the enforcement arms of hamlet, village, city, Nation, and State, there appears upon the horizon a glow of hope, pointing to the day when again the majesty of the law shall be truly majestic, and the criminal reduced to the substratum where he rightfully belongs. May I add that in the Federal Bureau of Investigation it has been found that while crime does not pay, there are huge rewards in the relentless pursuit, apprehension, and punishment of criminals. During the past year, of all persons brought to trial through the investigative efforts of the Federal Bureau of Investigation, convictions were obtained in 94 percent of the cases. The cost of the Bureau for the fiscal year recently ended was approximately \$4,680,000. During this time it effected recoveries of property and otherwise saved the taxpayers of America more than \$38,000,000. For every dollar which went into crime chasing, more than \$8 was brought in. The same sort of record can be made by any other law-enforcement agency of America which is allowed to concentrate upon crime, aided by every known practical and scientific method, plus freedom from influence and the degrading, disrupting burden of politics.

Only a short time ago, the Identification Division of the Federal Bureau of Investigation received its five millionth fingerprint record. Here is the greatest repository of factual criminal data in history, built through cooperation. It is not something which belongs alone to the Department of Justice. We are merely the custodians. It is your information bureau; you are the ones who built it to its present size and scope. Your officers risk their lives to arrest the more than 3,000 criminals whose fingerprint records are received daily in this great collection, which represents America's public enemies.

It is indeed cooperation when the law-enforcement bodies of the world can band together upon a common basis of action which steadily, day after day and month after month, brings about the identification of 50 percent of all persons arrested as having previous criminal records, and actually resulted in the past year in the location of 4,403 fugitives; 12 times a day somewhere in the United States some furtive lawbreaker is stripped of his aliases and revealed as a wanted felon because the law-enforcement bodies of the country have built up in Washington the greatest crook-catching device in the history of crime. Daily the fear of this Division grows in the mind of the criminal, he knows that here are witnesses who cannot be bribed, intimidated, or done away with. Even the agonies endured by such men as Dillinger in attempting to alter their finger tips, or those of the members of the Barker-Karpis gang who resorted to the actual slashing away of portions of their fingers have been found unavailing against the scientific manner in which fingerprint identification has been built up through your aid.

Likewise, the facilities of the crime laboratory of the Federal Bureau of Investigation, which was established in 1932, are yours. You are the men who furnish the evidence upon which to work; you are the men for whom this laboratory was conceived and built. The greater use you make of it, the greater will be its ability to aid and detect and apprehend.

Thus goes the story of the entire Federal Bureau of Investigation. It is not a mere law-enforcement body. It is an institution entrusted with the task of giving aid to crime prevention, to detection and apprehension everywhere. Every growth of investigative methods conceived here is yours for the asking. The aim of the Bureau is constantly centered upon the belief that no one unit of apprehension and detection can be self-sufficient. The

effort must be a concerted one; the idea incessantly in view that crime no longer is local but nationalized, and that the nationalized methods are necessary to combat it.

Even the recent laws which have widened the powers of the Federal Bureau of Investigation were initiated not with the idea of usurping power from local agencies, but with the idea of giving aid to them. To this end no man in America deserves higher praise for his steady and conscientious efforts in the interests of law-enforcement than the Honorable Homer S. Cummings, Attorney General of the United States. It was through his genius and hard work that recent laws were devised and carried through to passage by Congress, centralizing effort in certain types of crimes which, through the growth of swift transportation, were becoming burdensome to local agencies.

Through his unflinching interest and his vision, it has been possible to build up the Federal Bureau of Investigation from a purely investigative agency to a militant one. It was he who brought about the condition of fear which now rules the underworld, the man who made it possible for the Federal Bureau of Investigation to obtain the arms, the ammunition, and the type of trained personnel to carry on a battle to the death, if necessary. That it has been successful is attested by the tombstone names of Wilbur Underhill; John Dillinger; Fred and Ma Barker; Russell Gibson, the kidnaper; "Pretty Boy" Floyd; "Baby Face" Nelson; and others.

The Attorney General's motivating idea throughout this entire plan of action has been that of useful cooperation with local law-enforcement agencies—in other words, to provide the most highly centralized agency possible, which acts as a coordinating agent for the police bodies of the Nation. In this connection, I feel sure that you all will agree with me that cooperation is as necessary from one side as it is from the other. With that cooperation functioning perfectly, marvelous results can be achieved; it has been through such close coordination that the Department of Justice, since the passing of the Lindbergh kidnaping statute in 1932, has been able to solve every one of the 50 cases brought to its attention, resulting in the conviction of 117 persons and the holding in custody of 22 more now awaiting trial. Sentences totaling 1,760 years have been assessed in addition to 24 life sentences, 4 death sentences, 3 culprits who committed suicide, 3 who died by murder at the hands of their gang members, and 4 who learned that you cannot bribe a bullet and who fell before the guns of fearless law-enforcement officers of Federal and local governments.

The record of extortion prosecutions is equally imposing, while that of the protection of national banks shows that since the passing of the law in May 1934, making it a Federal crime to rob a national bank or member bank of the Federal Reserve System, the number of bank robberies of this type dropped from 16 per month to 4 per month. This does not mean that the Federal Bureau of Investigation performed a superhuman task where others had failed. It does mean, however, that this Bureau was able to take the place of a central activating agency, cooperating with local agencies for the purpose of destroying the urge to rob banks. There are at present 65 persons in custody awaiting prosecutive action for this violation of law; 69 others have been convicted, 3 for life, and the others to terms totaling more than 1,616 years. Only one person has been acquitted. More than \$125,000 in stolen money has been recovered. That all this was done in close cooperation with local officers is best evidenced by the fact that State trials have brought convictions to 24 persons, two of the sentences being for life; and seven bank robbers were killed by State officers.

Thus with cooperation becoming something vastly more practical than a mere theory, we are concerned with what can and must be done through that cooperation. You long ago have learned the usefulness of the Identification Division; the same field of aid lies before you in the crime laboratory. Here there are scientists and experts who are interested only in learning the truth. The testimony of a crime laboratory expert is unbiased; he has no personal interest in a case, and he is not in the business of testifying for money. To convict the guilty and acquit the innocent is his task; nothing can swerve him from that goal.

With the growth of scientific detection, the burden of laboratory work upon law-enforcement agencies daily grows greater. Likewise, there also increases the danger that commercial "crime laboratories" will more and more enter the picture of detection and apprehension, bringing about a repetition of the difficulties often experienced by expert testimony where evidence is given for hire. The Federal Bureau of Investigation crime laboratory does away with this danger. It is yours. Make the fullest use of it. There are no fees, no honorariums. The reward comes in sending a criminal to prison or an innocent man to freedom.

Our training methods are yours—we welcome their adoption in the law-enforcement bodies of the Nation. There is nothing secret about the manner in which the Federal Bureau of Investigation works. Its formula is a simple one—intensive training, highly efficient and carefully investigated personnel, rigid requirements in education, conduct, intelligence, ability to concentrate, alertness, zeal, and loyalty, plus careful schooling in which we do our utmost to make every man to a degree self-sufficient. He must be a good marksman and have the courage to shoot it out with the most venomous of public enemies. He must know how to take fingerprints and what to do with them afterward. He must learn that no clue, no matter how seemingly unimportant, can be overlooked. He must have constantly before him the fact that science is a bulwark of criminal investigation, and neglect no avenue toward this end. And he must realize that no case ever ends for

the Federal Bureau of Investigation until it has been solved and closed by the conviction of the guilty or the acquittal of the innocent.

Therefore, we are shortly embarking upon an experiment for which I have great hopes—the installation of a police training school in the Federal Bureau of Investigation. With the opening date set for July 29, and with the beginning to be made on a limited scale until we have passed the experimental stage, the Attorney General hopes to provide in this police training school a university of police methods which may make the Bureau's most successful methods a part of the regulation police procedure in every part of the United States.

Selected police officials from State and local units may here receive a complete 3 months' course of intensive study in the technique of modern law enforcement. Naturally the vast resources of the Federal Bureau of Investigation will be thrown wide to them, but beyond this there shall be employed the services of outstanding men from universities, the field of criminology, and from police departments themselves.

There will be courses in fingerprinting, in the workings of the crime laboratory; practical field problems shall be studied, methods of attack, of surveillance, of gathering, preserving, and presenting evidence. The gun range of the United States Marine Corps at Quantico, Va., will be used for firearms training, the use of tear gas, riot guns, and machine guns. There will be practice in firing from speeding automobiles, and under conditions simulating those of actual battle.

Beyond this, the local problems of the police official will be thoroughly covered. There will be lectures on traffic control, on patrolling, report writing, court procedure, preparation of cases, and giving of evidence. The visiting official will be taught something of crime motivation, of neighborhood problems and of public relations. Police equipment will be lectured upon in all its branches—it is our aim to present in this police training school the answer to every problem which can arise in Federal, State, or local law-enforcement work. The course is free, police officers in attendance paying only their transportation and subsistence costs.

Our hope, of course, is that the men who undergo this course will return to their various communities equipped to spread their information among their departments; in other words to be missionaries from this university for a more advanced attack upon the crime problems of today. And I believe that one enlightening bit of study will be that portion of the course which treats of secrecy in the successful pursuit and apprehension of today's criminals. Through the employment of the nonpublicized methods of investigative technique the Federal Bureau of Investigation has achieved some of its most successful results.

This is especially true in kidnaping cases and others where the life or welfare of innocent persons is at stake, or where publicity may endanger the lives of local or Federal officers. Secrecy is the most hated word in the life of an outlaw. His best friends are those newspapers which, in their avidity to fulfill the ill-considered public desire for information, seek to publish every possible fact concerning an investigation. Time and again we all have seen efforts at important captures fall simply for the reason that a criminal bought a newspaper of this type and learned of the detailed plans to effect his apprehension.

We must give more attention to this need of secrecy. We must realize, after all, that our job is to capture criminals and not to make our efforts a running, day-by-day recital either of our methods, or actions, or aims or plans.

The impression may have been created by persons with an ax to grind that the Federal Bureau of Investigation desires to seize the glory of criminal catching. To that I answer that this Bureau is in the business of catching crooks—and that this is our sole business. No one knows better than we that the local police, where there is not inefficiency, corruption, or headline hunters, and as deeply and seriously concerned with a crime as ourselves. It is to our interest and to the interest of all that recognition of local assistance be fair and just and honest. Therefore, it is my request that when you gentlemen who control the law-enforcement agencies of the Nation feel that you have justification to question why certain tactics are used by the Bureau in some case which arises in your locality, you talk to me personally about it. I am at your service and am only so far away as a telephone connection. Whether you be to the south, the north, the east or west, telephone me. The number is National 7117, Washington, D. C. Let us talk upon a common basis about something in which we are jointly interested, the catching of the criminal. The Federal Bureau of Investigation, I again repeat, is your agency, your clearing house. It should be as much a clearing house of ideas as of actions.

I have mentioned that our common basis is that of catching the criminal. It goes further than that. Our common basis is the public welfare, and to that end we must work in closest harmony. If I may suggest, there are certain goals which lie along the road and to which we should dedicate our most earnest efforts.

One is, of course, the outlawing of politics in all matters concerning the criminal. There should be determined fights on the part of law-enforcement bodies when some shyster legislator brings before a lawmaking body any statute which will further the interest of the criminal or make his apprehension and punishment more difficult. Law enforcement is in a fighting mood, and it must remain militant. When politics seeks to stay its hand by reduced appropriations, by red tape, by enforced appointments, I feel that the official who makes a fight against it will have the support of the public. Certainly this is true of the official who is brave enough

to do what many members of the legal profession seemingly are afraid to do—I mean to make a determined effort to rid the communities of America of that filthy parasite of crime, the conniving, plotting, crime-aiding criminal attorney. We in law enforcement have given the legal profession of America many warnings and numerous opportunities to clean house. Those warnings in many cases have been disregarded and the opportunities have been flouted.

The successful prosecution of B. B. Laska, the Denver attorney, recently convicted of having aided the kidnapers of Charles F. Urshel, of Oklahoma, and the equally successful proceedings against Louis M. Piquett, politician-lawyer of Chicago, convicted of having harbored and abetted a member of the Dillinger gang, are evidences of what is to come in this regard. Here and now, for the benefit of crooked attorneys everywhere, I give them warning that the Federal Bureau of Investigation, whenever it receives the slightest bit of evidence tending to show that these criminal allies have sought to traduce justice through planning, plotting, or aiding in crimes, or by bribery, intimidation of witness, or other unlawful means, will follow such evidence down to the final shred. The Department of Justice has already placed a number of attorneys criminal where they belong. It intends to add to that list considerably.

There also is much work to be done in the field of civil fingerprinting. Already many good citizens of America have evinced interest in the efforts of forward-looking citizens to establish as large a civilian, noncriminal file as possible. It is a task of education in which I feel we should join for the good of society—certainly there could be no more interesting program for local civic organizations than a talk by your fingerprint expert upon fingerprinting in general and the advantages of contributing to the civilian file.

The number of persons who disappear each year, for instance, is amazing. In Los Angeles County alone last year 100 amnesia victims could not be identified and were committed to various institutions as nameless, helpless, friendless persons. If their fingerprints had been on file in Washington, identification would have been almost immediate. The potter's fields of the country yearly receive hundreds of bodies of the so-called "unknown dead." The term is incorrect—somewhere someone knows them, someone searches for them, someone loves them. They are the unidentified dead, often condemned to pauper burial merely because the marks of their fingers are not upon a pasteboard card. The criminal can be identified; the honest man cannot, thus thousands annually wander about the country afflicted by loss of memory; children disappear and are lost forever; daughters are lured from home to sink in disgrace because they are ashamed or fear to return when a welcome forgiveness awaits them. Much of this can be prevented by civil fingerprinting. Let us tell this story whenever possible. Let us point out the benefits to humanity of a central identification bureau where the deposition of fingerprints is the mark of an honest man. Let us show the benefits in business, in safety of travel, in rescue during time of illness or loss of memory. I believe the public will welcome it—and every effort exerted along this line means a lessening in the tremendous task which enforcement agencies must shoulder in the daily hunt for thousands upon thousands of missing persons. More than 5,000 a year disappear from Philadelphia, for instance; 3,000 from Los Angeles; a thousand from Portland, Oreg.; 2,200 from San Francisco; 13,000 from New York; 4,000 from St. Louis—other cities and towns range in proportion. Large numbers of them are found, of course, but only after arduous effort that would be reduced by a great percentage if the law-enforcement official had as his ally a set of identifying fingerprints on file at Washington.

Another problem of grave concern to us all is the ever-recurring one dealing with the extension of various forms of clemency to the criminal. No one in this assemblage, I feel sure, will scoff at the theory of parole and of rehabilitation. I said theory, not practice. There is a vast difference. The theory is beautiful. The practice approaches a national scandal.

It seems inconceivable that the people of America should be taxed the millions upon millions of dollars which they must annually pay for police, State constabularies, Federal enforcement bureaus, courts, penal institutions, and the like, only to have this expense become a mockery. It seems impossible that in an enlightened nation brave officers should be asked to face desperate criminals, to endure danger, injury, and even loss of life that those criminals be captured, only to see them turned loose to again resume their predatory careers. It seems unjust that the brave men of the Federal Bureau of Investigation must face their daily dangers, giving loyalty of their years and sometimes of their life blood, unprotected by insurance, retirement pay, or adequate pensions for their widows if they fall on the field of battle, while throughout America millions of dollars are being squandered because of ill-considered, ignorant, or politically controlled parole and clemency actions which release dangerous men and women to prey upon society.

Parole and clemency advocates who love to talk of the beauties of "restricted liberty" as they like to call it, say that we have no parole problem. They say we point to isolated cases. Let them prove it. Let them show by case records where hardened criminals have been reformed after 3 and 4 and even 5 paroles, during which time they have been returned for new crimes.

Strangely enough, in spite of the foregoing remarks, I am an advocate of parole, the right kind of parole. I believe that parole was originated to give the first offender a chance to reform and rehabilitate himself. I believe that any man convicted of a crime should, if he displays reasonable desire to do so and providing his crime not be heinous, be given a chance to face the world anew. But when convicts with extensive records for offenses against

society are turned out of prison cells for no other apparent reason than that they have asked for it, or that they have conducted themselves according to the rules of prison, then there is something wrong with America.

How can these State parole and pardon systems justify their actions when there are certain States which will not make the effort necessary to return parole violators, once those renegades have crossed the State line? It is apparent that there is throughout the entire Nation a woeful and, in some cases, absolute lack of any effort to find out what the paroled man does after he leaves prison. All this makes for a ghastly farce and no one knows it better than we who are intrusted with the safeguarding of society.

I repeat that this is a time when law enforcement must fight for its right to conquer the criminal world. To do this, it must combat the aids by which crime flourishes—easy parole, easy commutation, easy probation from sob-sister judges, and above all that monumental fake which has too long been perpetrated upon the American public—the prison sentence which says one thing and means another. There must be a campaign of education to teach the man in the street that he should not be lulled to peaceful acquiescence when a judge sentences a man to jail for 20 years, knowing full well that he will be out in 5.

The American citizen must be taught that prison sentences today are largely a matter of division and subtraction. The criminal knows it. He realizes only too well that scavenger legislative lawyers and sappy sentimentalists have tricked the statutes until today, granted that the criminal has brains enough to simulate good behavior and a desire to rebuild, this would mean that the maximum time this man will spend in prison is one-third of his sentence. Often it is not even that. I have in mind the cases of two criminals, well-known gangsters, robbers, pay-roll hold-up men, and sufficiently dangerous to be listed in the single fingerprint section of the Federal Bureau of Investigation. For their many crimes these men were sentenced respectively to 105 years and 145 years in prison. One escaped from a chain gang five times; the other escaped three. Both were freed within 8 years, and in the space of a few months had committed new crimes, including the robbery of a national bank.

The average murderer spends 10 years behind bars, and murder is supposed to be our greatest crime. Such procedure amounts to little more than subterfuge; law can have little majesty under such conditions. Let the public know the truth and I believe public opinion will rise to a point where sentimentalists, crooks, sob sisters, and convict lovers will be forced to give society a chance by sending prisoners to jail for the full amount of time they deserve to serve.

Thus we come to a discussion of what is justice. Late in May a young boy was kidnaped in a Pacific coast city. He was stolen from a school yard, forced into an automobile, held a prisoner in a pit, and bound in chains. Then he was dragged about the country cramped into the rear trunk of an automobile, after which he was incarcerated in a closet for days while his abductors wrung from the distraught parents the sum of \$200,000. At last the money was paid, and the boy, his life forever shadowed by his inhuman treatment, returned to his home.

The homecoming was perhaps the most heart-rending event in the knowledge of the 70 or more experienced journalists and law-enforcement officials who were present. The curly-haired boy, cheerful in spite of his suffering, came out upon the lawn to meet these men and women, all of whom were veterans. They had seen train wrecks, floods, loss of life in accident and shipwreck; many had witnessed executions. They thought they were hard-boiled. Yet, as they viewed this young fellow, striving bravely to forget the ordeal through which he had passed, fighting like the fine, stalwart American boy that he is, to face life and win, despite this gaunt shadow which had crossed his path, there was not an eye which remained dry, not a throat unchoked, not a voice which failed to tremble. The fiends who had taken this youth, who had dared to blight a lustrous young life for the sake of blood money, would be adequately punished, they knew. Regrets were expressed that they could not be hung.

The Federal Bureau of Investigation began a hunt for these kidnapers. In the meantime, however, another search bore fruit, the chase to round up the last of the kidnapers of Edward G. Bremer in St. Paul. Volney Davis, a member of the Barker-Karpis gang, was captured. He pleaded guilty and was sentenced to life imprisonment. His crime had been participation in the stealing of an adult.

In the case of the young boy, Harmon M. Waley was arrested as one of the kidnapers. The arrest revealed that Waley had been a consistent violator of the law since the age of 16. He had been paroled not once but several times, only to violate his parole or commit new crimes. In fact, his parole history was so flagrant that the President of the United States demanded an investigation.

This foul body snatcher, Waley, had imperiled the life of a fine young boy. He had helped to extract a fortune from parents who had been forced into debt to pay the ransom. He had deliberately, maliciously, and fiendishly committed the worst crime that human brain can conceive. Yet his sentence was for but 45 years, a term often equaled in bank robbery cases.

Again I repeat that prison sentences are not sentences but problems in division and subtraction. Within 15 years, Harmon Metz Waley will be eligible for parole, his debt served for having stolen an innocent, defenseless child. Meanwhile Volney Davis, unless he also meets some munificent mercy, will have only begun to serve out that long life sentence for the stealing of an adult. Therefore, I ask, not in a spirit of criticism, of course, but merely from a standpoint of bewildered curiosity, what and where is justice?

INDIANS IN CALIFORNIA

The SPEAKER. The Chair lays before the House the following request from the Senate of the United States:

SENATE OF THE UNITED STATES,
May 13 (calendar day May 31), 1935.

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 1793) to amend the act entitled "An act authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California", approved May 18, 1928 (45 Stat. L. 602).

The SPEAKER. Without objection the request will be granted.

There was no objection.

ADDITIONAL UNITED STATES JUDGES

Mr. MONTAGUE. Mr. Speaker, I call up the conference report on the bill (H. R. 5917) to appoint an additional circuit judge for the ninth judicial circuit and ask unanimous consent that the statement may be read in lieu of the report.

Mr. TRUAX. Mr. Speaker, reserving the right to object, I should like to ask the gentleman from Virginia if this is the bill that was originally passed by the House providing for an additional circuit judge for the ninth district but which bill the Senate amended so as to provide for two more judges in California and making permanent in California a temporary appointment existing with reference to another Federal judge?

Mr. MONTAGUE. Substantially that is true.

Mr. TRUAX. Mr. Speaker, I object.

Mr. SNELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SNELL. Mr. Speaker, I understood the gentleman from Virginia called up a conference report. Is that correct?

The SPEAKER. That is true.

Mr. SNELL. There can be no objection to calling up a conference report.

The SPEAKER. The gentleman from Virginia asked permission that the statement be read in lieu of the report.

Mr. BLANTON. It is just a question of saving time.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. TRUAX. I do not object to the reading of the report.

Mr. TABER. I object, Mr. Speaker.

The SPEAKER. The Clerk will read the report.

The Clerk read the conference report.

The conference report and statement are as follows:

CONFERENCE REPORT

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, and 3, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same with an amendment, as follows: In lieu of the amended title proposed by the Senate, amend the title so as to read: "An Act to Provide for the Appointment of Additional United States Judges"; and the Senate agree to the same.

A. J. MONTAGUE,
WESLEY LLOYD,
U. S. GUYER,

Managers on the part of the House.

WILLIAM H. KING,
W. G. McADOO,
WM. E. BORAH,

Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) to appoint an additional circuit judge for the ninth judicial district, submit the following written statement explaining the effect of the action agreed on by the conference committee and submitted in the accompanying conference report:

As it passed the House, this bill provided for the appointment of an additional circuit judge for the ninth circuit. The Senate made three amendments to the bill, which the House conferees accepted.

The first Senate amendment adds to the bill provisions for the appointment of two additional district judges for the southern district of California.

The second Senate amendment makes permanent an existing temporary judgeship in the southern California district created by the act of September 14, 1922. The act under which it was created provides that no vacancy occurring in this position can be filled without legislation by Congress.

The third Senate amendment authorizes the appointment of an additional district judge for the eastern district of Virginia. A separate bill for this purpose has already passed the House this session.

The title of the bill is amended to harmonize with its contents as amended.

A. J. MONTAGUE,
U. S. GUYER,
WESLEY LLOYD,

Managers on the part of the House.

Mr. TABER. Mr. Speaker, is it the intention of the gentleman from Virginia to yield time on this conference report?

Mr. MONTAGUE. I should like to expedite it all I can, but I shall not object to a reasonable amount of discussion.

Mr. TABER. I think the House ought to know what it is about and ought to have an opportunity to discuss it.

Mr. MONTAGUE. I shall be glad to state what it is about.

Mr. TABER. And will the gentleman be willing to yield time to those who are opposed to the proposition?

Mr. MONTAGUE. Yes.

Mr. BLANTON. Mr. Speaker, will the gentleman from Virginia yield?

Mr. MONTAGUE. I yield.

Mr. BLANTON. There are two Federal judgeship bills. One is the bill of our colleague from Virginia, which involves only two States—a judge for Virginia and two for California, and the continuation of another there. There is another bill, however, which provides for about 15 Federal judges.

Mr. CELLER. No. I know the gentleman does not want to misstate it; it will make permanent temporary judgeships.

Mr. BLANTON. It involves about 15; and numerous Members on both sides of the aisle are against that bill. We do not want to get the two bills mixed.

Mr. MONTAGUE. That is not this bill.

Mr. BLANTON. That is not this bill. The gentleman's bill merely provides for judges in California and Virginia.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. MONTAGUE. Certainly.

Mr. MICHENER. It is rather difficult for us to hear the gentleman over here. Is this the omnibus judge bill or is this the Virginia bill?

Mr. MONTAGUE. I will state to the gentleman that it is neither.

Mr. MICHENER. What is it?

Mr. MONTAGUE. Sometime since a bill passed this House creating an additional circuit judgeship in the ninth circuit. This bill went to the Senate, where two amendments were offered, I think by the Senator from California [Mr. McAdoo] creating two additional district judgeships for the southern district of California, and also an amendment providing that a judge who has been long serving, I understand, should have his term made permanent, in keeping with the Constitution. The statement shows the fact. There was another amendment also, an amendment offered by Senator GLASS, of Virginia, creating an additional Federal judgeship for the eastern district of Virginia. These are the reasons the bill is back here.

Mr. MICHENER. As a matter of fact, all of these judgeships have been placed in this one bill; I do not care how they started, when you get down to brass tacks that is the situation.

Mr. MONTAGUE. When you get down to brass tacks only three judgeships are put into this bill in addition to making permanent a temporary one.

Mr. MICHENER. How many judgeships does this bill carry?

Mr. MONTAGUE. I have stated that to the gentleman but I will state it again. It carries three new district judgeships, one of whom has already been approved by this House.

Mr. MICHENER. This is not the bill carrying the Arizona judgeship?

Mr. MONTAGUE. Not at all. The gentleman is correct.

Mr. O'MALLEY. Will the gentleman yield?

Mr. MONTAGUE. I yield to the gentleman from Wisconsin.

Mr. O'MALLEY. This bill started out in the House creating one new judgeship?

Mr. MONTAGUE. The bill, as I understand it originated in the House creating one new circuit judgeship in California.

Mr. O'MALLEY. Now it comes back here with three tacked on?

Mr. MONTAGUE. Two tacked onto the bill passed by the House, and one additional, allowing a judge to the eastern district of Virginia, which has heretofore passed the House.

Mr. DOCKWEILER. I yield to the gentleman from Michigan.

Mr. MICHENER. The gentleman speaks of an investigation by the Supreme Court made a number of years ago. Congress set up a Judicial Council, consisting of the members of the Supreme Court and the presiding judge of each circuit. This Council meets once a year. It has been the policy of the Judiciary Committee of the House to give attention to the recommendations of the Judicial Council, and the Judiciary Committee has done that regardless of political consideration and regardless of who is in power. I believe that policy should be carried on. Take Massachusetts, for instance, they should have an additional judge. All the facts show they should have an additional judge, because the business of the Federal court there is away behind. When the Attorney General, regardless of politics, and the Judicial Council, which surely is not partisan, reports that a district needs and must have additional help, it seems to me that we should cut out all logrolling and partisanship and allow these additional judgeships if we find that the recommendations are justified. Needed judges should not be denied because some Senator insists that there will be no bill unless he gets a judge for his State. I think we should allow these judgeships where they are needed. Necessity should be our guide. Michigan needs a judge to take the place of Judge Simmons, who has been promoted to the circuit bench. This is not a new judgeship, but this judgeship lapsed upon this promotion. The Judicial Council asks that Michigan's vacancy be filled, but I am ready to vote against a judge for Michigan if the price is to be unnecessary judges in other States. I think that should be the attitude of the Congress. Political logrolling has no place when dealing with the judiciary.

Mr. MONTAGUE. I may say to the gentleman from Michigan that the pending bill does not have anything to do with the judgeship in Michigan at all.

Mr. MICHENER. I know it does not, but the other bill does.

Mr. PIERCE. Mr. Speaker, will the gentleman yield?

Mr. MONTAGUE. I yield.

Mr. PIERCE. Suppose this conference report is voted down then what happens with respect to the circuit judge for the ninth district and the district judge for the Virginia district. We passed both of those bills, and now they have passed them in the Senate, have they not?

Mr. MONTAGUE. Yes.

Mr. O'CONNOR. That is a very easy question to answer from a parliamentary standpoint. We can insist on our disagreement to the Senate amendments and send it back and provide for a district judge in Virginia.

Mr. PIERCE. We passed a bill providing for a circuit judge for the ninth district.

Mr. O'CONNOR. And they have put in three judges for California.

Mr. PIERCE. I am talking about the circuit judgeship.

Mr. KRAMER. There are only two additional judges provided for California.

Mr. SUMNERS of Texas. Mr. Speaker, ladies and gentlemen of the House, they are undertaking to gang Judge MONTAGUE's bill.

The argument made against the bill is absolutely unfair. There are two distinct bills before this House. Let us see what the facts are. They are not going to let any of these bills go through, they say. Who are "they"? My distin-

guished friend from New York, whom I respect—and I appeal from him to the House that controls its own business. What are the facts?

The facts are that Judge MONTAGUE introduced a bill which went to the Judiciary Committee; the committee approved the bill and the House approved the bill. That is one proposition.

The second proposition is Mr. LLOYD introduced a bill taking care of the ninth circuit. The Judiciary Committee approved it; it passed the House and went to the Senate. That is the second proposition.

When the two bills got into the Senate there was a proposition in the Senate for two additional district judges in California, who seem to be referred to by my distinguished friend from New York as Republican judges. We hope that if we get the two more judges we will get in a couple of Democrats. [Laughter.]

Mr. YOUNG. Will the gentleman yield?

Mr. SUMNERS of Texas. For a quick question.

Mr. YOUNG. The gentleman refers to this as Judge MONTAGUE's bill.

Mr. SUMNERS of Texas. Never mind that. I cannot go into that now, however.

Mr. YOUNG. The entire character of the bill has been changed.

Mr. SUMNERS of Texas. I am giving the House a square statement about the facts. I stated clearly that Judge MONTAGUE introduced a bill. Mr. LLOYD introduced a bill, so that the Senate had two bills before it, and they put in two additional judges from California, as the Senate had a perfect right to do.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield? The gentleman mentioned my name.

Mr. SUMNERS of Texas. Yes.

Mr. O'CONNOR. I think the gentleman intimated that I said something about Republican judges. I do not recall that I mentioned Republican judges.

Mr. SUMNERS of Texas. If the gentleman will look at the RECORD tomorrow, he will recall it.

Mr. O'CONNOR. I am sure it is not in the RECORD. I never mentioned Republican or Democratic judges.

Mr. SUMNERS of Texas. Oh, yes, the gentleman did.

Mr. O'CONNOR. Very well; if I did, I did. I am just as much opposed to Democratic Federal judges as Republican Federal judges. I am for Judge MONTAGUE's bill and for Mr. LLOYD's bill.

Mr. SUMNERS of Texas. With regard to these two judges in California, we want to be sensible about the matter. There is not anybody, Democrat or Republican, who will not agree that the record with regard to the southern district of California shows that they need these judges out there. I do not believe there is a single human being, man or woman, who will take his or her place in the Well of the House and state on his own responsibility that the record does now show conclusively that those two judges are needed to carry forward the public business.

Mr. YOUNG. In that event why did not the gentleman's committee report a bill for the creation of those two judges?

Mr. SUMNERS of Texas. Never mind that now.

Mr. LUNDEEN. Mr. Speaker, will the gentleman yield?

Mr. SUMNERS of Texas. If there is any challenge to my statement, I yield.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. MONTAGUE. Mr. Speaker, I yield the gentleman 3 minutes more.

Mr. LUNDEEN. Did the gentleman ever hear of a United States district or circuit judge who was not overcrowded with work? I never did.

Mr. SUMNERS of Texas. I have, and I make this statement. I do not believe anybody who will examine the situation in California but will say that they need these two new judges. That is my judgment. We want this report voted either up or down on its merits. It is not fair in the consideration of this conference report to be talking about 13 other judges.

It is not fair or good sportsmanship or a good legislative way of handling business. We have an arrangement under which the Chief Justice of the Supreme Court and the presiding justices of each of the circuits come in here and go over the business of the courts. They have gone over the business of the southern district of California and recommended these judges. What has happened? Nothing, except that the Senate, a responsible part of the legislative branch of the Government, added two California judges, which is a good thing to add to the bill, we thought. That is all there is to this report.

Mr. O'MALLEY. Mr. Speaker, will the gentleman yield for a question?

Mr. SUMNERS of Texas. Shoot it fast.

Mr. O'MALLEY. Did the House Judiciary Committee study the need for these two additional judges?

Mr. SUMNERS of Texas. I did, and I think the other members did. I do not think there is any disagreement about that.

Mr. O'MALLEY. Did your committee report a bill out?

Mr. SUMNERS of Texas. No. What are we going to do about it now? What is the sensible thing to do about it? Are you going to beat Judge MONTAGUE's bill on the statement of my good friend from New York [Mr. O'CONNOR]? I could take care of that statement if it were pertinent, with regard to good sportsmanship. I helped bring that bill in. I do not want to take any more time, but I do not want to see such tactics resorted to against Judge MONTAGUE's bill on the floor of this House.

Mr. YOUNG. But no one on the floor of the House now is in a position to give us information as to whether or not the present district judges in the southern district of California are on the job or on vacation or how much time they have devoted to their work; and how can we pass on the merits of this unless the gentleman's committee gives us that information?

The SPEAKER. The time of the gentleman from Texas has again expired.

Mr. MONTAGUE. Mr. Speaker, I yield the gentleman 2 minutes more.

Mr. SUMNERS of Texas. I have not the figures, and I do not know whether the California Members have them or not, but I say on my own responsibility that the figures that I have examined and which the other members of the committee have examined show the need for these two judges. Of course, we have not any way on earth of trailing these judges and seeing whether they sit on the bench all of the time they should sit there. The Attorney General thinks they ought to have these judges, and the Chief Justice thinks we ought to have these judges.

Mr. YOUNG. But they ought to be on the job all of the time, because they are the only officeholders in this country who did not take a cut in pay when everybody else did.

Mr. KRAMER. Is it not a fact that continuously they have had judges come in from other districts to help out in southern California?

Mr. SUMNERS of Texas. Yes. I will not take any more time. [Applause.]

Mr. MONTAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Speaker, I am one of those who do not believe in creating any unnecessary Federal judges, and I appeal now to my colleagues who have made that fight with me in this House not to be prejudiced against a meritorious bill.

I believe that every bill ought to be fought out on this floor on its own merits. What is this bill? The gentleman from Texas [Mr. SUMNERS] stated it clearly and distinctly. This is not the Montague bill; it is the Lloyd bill. It went from this House creating a new judge for the ninth district of California. There was also a bill passed here by my colleague Mr. MONTAGUE to create a judge for the eastern district of Virginia, which passed the House. Both were meritorious bills.

Those two bills went to the Senate. The Senate took this Lloyd bill and added Judge MONTAGUE's bill on it as an amendment. So if you vote down the Senate amendment,

as the gentleman from New York [Mr. O'CONNOR] advises you to do, you do not pass the Montague bill at all, but you kill it. So you cannot vote down the Senate amendment and pass the Montague bill.

Now, I want to say this on behalf of those two new judges in California. If you will look up California's record you will find that California, comparable to other States of its size, has more new people today, both registered under the census and not registered under the census, than any other State in the Union. The reports that I am getting today are that there are nearly a million people in California who have gotten in there who are not registered at all under the census. They all have to be handled by the courts, for most of them are aliens.

I am one who does not want to see new Federal judgeships created when they are not necessary. I have fought against it. I am nevertheless one Member of this House who believes that they have done right in providing for these two new judgeships in California. [Applause.] I am willing to vote for this bill as it stands on its own merits. Then when the other bill comes up we will look after it on its merits.

I heard a prominent member of the great Ways and Means Committee a few minutes ago say that if there were going to be any votes against the 15-judge bill, he was not going to let this judge bill pass. I voted to put that gentleman on one of the biggest committees in this House, because I liked him and I then thought he was a man of pretty sound judgment. I voted to put him on our great Ways and Means Committee. Hence I was very much surprised to hear him say that if there were going to be any votes against the 15-judge bill, in which he was interested, he would not let any other new judge bill pass. That is not the kind of a statement that a distinguished member of the Ways and Means Committee of this House ought to make. He ought to be bigger than that. He ought to be broader than that. He ought to have better judgment than that. He ought to be more equitable than that to his colleagues and to the various districts of the country. I still have confidence in him, and I would vote again to place him on the Ways and Means Committee, notwithstanding his impulsive statement.

Mr. TARVER. Will the gentleman yield?

Mr. BLANTON. Not just at this moment. I regret I have not the time to yield.

I have served with my distinguished colleague from Virginia [Mr. MONTAGUE] since the war days. He is one of the most lovable characters in this House. [Applause.] He is one of the great men of this country. [Applause.] He has been Governor of the great Commonwealth of Virginia. He has the confidence of the people. He has rendered a distinctive service to the people of his Nation here in the Congress of the United States. [Applause.] This is his bill. Are we going to kill it; are we going to "Ohio it to death" with these talks simply because we are prejudiced against new judges?

I am one who took the floor against that 21-judge bill back in 1922, and if you will refer to my speech made in 1922 against that bill you will see that I quoted one of the strongest speeches against unnecessary judges that was ever made on this floor, made by the Chairman of our great Committee on the Judiciary [Mr. SUMNERS]. His splendid speech made in a former session against creating new unnecessary judgeships was unanswerable.

Chairman SUMNERS of Texas in that speech spoke about the then conditions out in Arizona where the judge was busy only a few months in the year. He then spoke of the then conditions in Colorado. Today that one judge out in Colorado recently has been trying cases in New York City. He was not busy out in Colorado, so they sent for him to help them out in New York City.

Let us pass this Montague bill. Let us give the eastern district of Virginia its judgeship, and let us at the same time do right and justice by California. [Applause.]

The SPEAKER. The time of the gentleman from Texas [Mr. BLANTON] has expired.

Mr. MONTAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, in 1933 I introduced a bill providing for a Federal judge in the eastern district of Michigan. At the beginning of the Seventy-fourth Congress the same bill was resubmitted. It was on the strength of appeals from the citizens of Detroit and of Michigan, supported by the entire bench of Federal judges located at Detroit that I introduced the bill known as "H. R. 2761." I think the fact that an additional judge is needed is borne out by the support that we have from the Judicial Council and the information that we have from the Supreme Court on the need for the reestablishment of what was at one time a temporary judgeship. However, my bill provided for a permanent, new judgeship, regardless of that temporary place which was unfilled since Judge Simmons was sent to the United States Circuit Court of Appeals at Cincinnati.

Now, I am for the bill offered by the gentleman from Virginia [Mr. MONTAGUE]. I never said I was opposed to it. I am for his bill on its merits. I feel that California, in view of the information we have, is entitled to have additional Federal judgeships; but at the same time I want to stress that we in Michigan need an additional judge as much or possibly even more than you need one in Virginia, or as much as you need two in California. Detroit is the fourth largest city in the United States and the eastern district of Michigan is one of the largest and most important, having a volume of legal business so great that the docket is completely swamped. It is not a matter of any personal pride or any desire on my part to obtain a new judge or slip in a Democrat to fill the place. It is an absolute necessity. It is a matter of public need to clear the docket at the earliest possible time.

My bill has been included in the omnibus bill, and I hope that this House will be fair enough to at least dissociate the instances where a unfair advantage is being taken and support the remainder of the bill purely on its merits. In the meantime, I want to assure the gentleman from Virginia [Mr. MONTAGUE] that I am not only not opposed to his bill but I am absolutely in favor of it. Any quotation of me to the contrary is entirely erroneous. I shall present the House with the necessary and substantiating fact when the omnibus bill is up for consideration.

Mr. Speaker, I yield back the unused portion of my time.

Mr. MONTAGUE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LEA].

Mr. LEA of California. Mr. Speaker, there is a simple principle that should determine the creation of a judgeship in any district; that is, whether or not the judge is needed. The question as to the need for the additional judges in California has been established as fully as it could be established anywhere. The highest authority on that question in the United States should be the Chief Justice of the Supreme Court, Mr. Hughes. Speaking at the American Law Institute in May of this year, Judge Hughes said:

In the southern district of California this average interval for all classes of cases is from 18 to 24 months. This is a condition which ought not to continue.

Then referring to the fact that the Judicial Conference had recommended these judges for California, he continued:

It is idle to talk of reforms if judicial administration, which underlies the enforcement of all laws, is not kept adequate and sufficient.

The gentleman from New York made a speech a few minutes ago in which he claimed that the hands of Congress are tied because of some alleged legislative agreement, some gentlemen's agreement, made in 1921. I have great respect for the gentleman from New York, but I think he is talking nonsense to the House when he advances any such argument. The idea that in 1921 a few men in Congress could get together and have some personal understanding about what should be done in the future and that in 1935 we should find ourselves debarred from doing the sensible, the just thing in this matter is nonsense, with all due respect to my good friend from New York. The whole Congress in 1921, even by unanimous vote, would not bind the Congress of 1935. Then how could a few Members by any gentlemen's agreement in 1921 attempt to bind Congress in 1935.

In southern California the population increased 65 per cent from 1920 to 1930. The situation today is entirely different from what it was in 1921. Would any sensible man for one moment contend that we should be bound today by the conditions which existed 14 years ago?

Mr. TARVER. Mr. Speaker, will the gentleman yield?

Mr. LEA of California. I yield.

Mr. TARVER. Would it not have been more nearly fair to have brought the California bill before the House as a separate proposition, to have allowed the House to pass on whether or not these judgeships were justified apart from the proposition of the gentleman from Virginia? Why was it advisable to tie it onto this bill in the Senate, having failed to get a favorable report from the House Judiciary Committee?

Mr. LEA of California. The gentleman refers to a question of procedure which does not relate to the merits.

Mr. TARVER. I say it has very great relation to the merits. I want to know why it was not thought advisable to bring the California proposition before the House separately and apart from the proposition for Virginia?

Mr. LEA of California. We have not had the legislative opportunity. We had to avail ourselves of the legislative opportunity that was afforded. We have not asked that it be considered on any other ground than its merits. There is a real need for these judges out there on the coast, and no argument to the contrary has been advanced. The attempt is to defeat the bill for a reason not going to its merits.

Mr. PIERCE. Mr. Speaker, will the gentleman yield?

Mr. LEA of California. I yield.

Mr. PIERCE. How many judges have you in southern California now?

Mr. LEA of California. Four.

Mr. PIERCE. And how great is the population?

Mr. LEA of California. We have over 6,000,000 people in the State.

Mr. PIERCE. How many people are there in the northern district?

Mr. LEA of California. The population there is less than 3,000,000.

Mr. PIERCE. How many judges are there in the northern district?

Mr. LEA of California. Three.

Mr. PIERCE. You have 7 judges, then, for about 8,000,000 people?

Mr. LEA of California. Yes; or over 6,000,000 people.

Mr. PIERCE. We are crowded up in Oregon. I was asking for one more judge. We have only a little over 1,000,000 people with 2 judges.

Mr. LUNDEEN. Mr. Speaker, will the gentleman yield?

Mr. LEA of California. I yield.

Mr. LUNDEEN. What difference does it make how these bills got before us? If the judges are needed, we ought to pass the legislation.

Mr. LEA of California. The statement of the gentleman is so manifestly sensible that I do not see how any man can think otherwise.

[Here the gavel fell.]

Mr. MONTAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. HEALEY].

Mr. HEALEY. Mr. Speaker, I merely want to reiterate the statement of one of the gentlemen who preceded me, that the argument made against this bill of the gentleman from Virginia was most unfair, for it brought in objections to another bill not under consideration at this time. The purpose, of course, was obvious.

This bill of the gentleman from Virginia for the creation of a judgeship in Virginia came before a subcommittee of the Committee on the Judiciary, which sat especially for the purpose of considering these various judgeship bills which have been introduced by Members of the House. I want to correct the statement that has been made previously that some of these bills were not even introduced by Members of the House. A check up I am confident will show that all these bills were introduced by Members of the House. This

bill was favorably considered by the subcommittee and reported to the full committee, by which it was presented to the House and passed by the House. Ample evidence was presented to the subcommittee and to the full committee to justify its favorable report for an additional judgeship in the ninth circuit. The Senate added on the two judgeships for California. The House Committee on the Judiciary has a number of these bills that have been presented by Members of Congress representing various States. The reason the bill for the California judges had not been previously reported to the House is due to the fact that the committee has not had the opportunity to study that particular bill. After reviewing the figures, however, the committee is convinced, and the chairman of the committee so stated in his speech, that California has made a showing that justifies the appointment of these judges.

As for the omnibus bill that may come up for consideration a little later, and which has been so unfairly and unjustly attacked, I merely want to make a brief statement. I introduced a bill for a judgeship in Massachusetts that was reported by the Judiciary Committee and passed by the House. The Senate added on the amendment, which will, if the conference report is adopted, make permanent 15 judgeships which are now temporary ones. This bill will not create a solitary new judgeship. We have a population of 4,300,000 in Massachusetts and have only two Federal district judges—fewer judges than any other State in this Union of even a comparable population. When the omnibus judgeship bill is presented to the House I am sure we can show sufficient justification for the adoption of the conference report which seeks to make permanent these temporary judgeships.

Mr. MONTAGUE. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. McFARLANE].

Mr. McFARLANE. Mr. Speaker, so that we will clearly understand the matter before us, may I say that it involves the question of creating and making permanent four additional Federal judgeships? According to the Attorney General's report of 1934, page 187, it costs the Government an average of \$71,425.06 for the operation of each circuit court and Federal district court we have today. We have 41 circuit judges and 150 district judges in the United States, Alaska, and District of Columbia, and to increase this number four will add an expense of \$285,700.24 to the already overburdened taxpayers. These courts are not needed; what we should do is redistrict and put our present courts to work. The Attorney General's report shows there were 135,128 cases commenced in 1933 and only 70,111 commenced in 1934, while there were 138,598 cases terminated in 1933, and only 90,091 terminated in 1934. There were 82,839 cases left pending in 1933 and 62,832 left pending in 1934. If these courts had disposed of as many cases in 1934 as they did in 1933 they would have pending only 14,325 instead of 62,832, which was 20,007 cases less than there was left pending in 1933. If our present judges would stay on the job and work we would not need any new courts. If you will refer to the bill that will come up next, which is Senate 481, the omnibus court bill, it will be found that the bill makes permanent 15 additional district judgeships.

Mr. HEALEY. Will the gentleman yield?

Mr. McFARLANE. I yield to the gentleman from Massachusetts.

Mr. HEALEY. May I tell the gentleman, so that he will have the correct information, that it does not create a solitary new judgeship.

Mr. McFARLANE. Out of these 15?

Mr. HEALEY. Not one.

Mr. McFARLANE. That may be true, but the bill at least makes permanent 15 temporary courts that will expire with the death of the present occupant of the chair, and according to the records I have just quoted all of these courts should be allowed to expire. The big excuse for creating these courts back in 1921-22 was on account of prohibition. Now that prohibition has been repealed these courts should not be needed further. And according to the records these southern California judges have disposed of less cases the

last 3 years than any other judges in the country except Iowa and Massachusetts.

I notice the bill provides for 2 for Massachusetts, 3 for New York, 1 for Pennsylvania, 1 for Michigan, 2 for Missouri, 1 for Ohio, another one for California, and they will get 3 out of this transaction; 1 for Minnesota; 2 for Texas; and 1 for Arizona.

So with all this logrolling, do not be surprised when the boys go to buttonholing you and saying, "Now, you scratch my back and I will scratch yours, and we will raid the Treasury for another \$1,071,375.90 to create and make permanent these additional 15 judgeships", and all this when there has been no information given showing any justification for any such procedure. The Attorney General recommends two additional district judgeships for California and New York, but this pending bill gives California three additional judges and Virginia one, to say nothing of the omnibus bill that sprinkles 15 judgeships throughout the country as above indicated. Both of these bills should be defeated and save this \$1,357,076.14.

[Here the gavel fell.]

Mr. MICHENER. Will the gentleman yield?

Mr. MONTAGUE. I yield to the gentleman from Michigan.

Mr. MICHENER. The gentleman from Texas [Mr. McFARLANE] said there has been no investigation made as to the number of cases tried, and so forth. I may say that this information was before the committee and is contained in the report of the Judicial Council, as well as the report of the Attorney General, which is in printed form. If the gentleman from Texas will refer to that report, he will find all the information which he seeks.

Mr. MONTAGUE. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mrs. GREENWAY].

Mrs. GREENWAY. Mr. Speaker, if, quoting the gentleman from Texas, "they are ganging up" on the Virginia Federal judgeship, certainly they have been "picking" on Arizona. It would be thought that we were a trailer attached to an automobile bigger than the automobile itself. The answer to the question asked by the gentleman from Texas I hold in my hand, and if I had more than 1 minute I would give the House the full information.

To include Arizona as a State that might not need a second judge is unjust. These are the amazing and interesting figures: Based on the cases of the last 3 years, if Arizona is not given an additional judge, the one Federal judge will have an average of 1,109 cases a year, whereas the 3-year average for cases per judge, based on United States civil, criminal, and private cases, for 1932, 1933, and 1934 are as follows:

	3-year average	If Arizona excluded from proposed legislation	
		Number judges	Average per judge
Arizona.....	1,109	1	1,109
Minnesota.....	2,769	4	692
Massachusetts.....	1,663	3	554
Southern New York.....	9,367	11	851
Eastern New York.....	4,378	6	730
Western Pennsylvania.....	2,227	3	742
Eastern Michigan.....	2,653	4	663
Eastern Missouri.....	1,489	2	744
Western Missouri.....	1,874	2	937
Northern Ohio.....	1,788	3	596
Southern California.....	2,376	4	594
Northern Texas.....	3,070	3	1,023
Southern Iowa.....	491	1	491

Mr. MONTAGUE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRUAX].

Mr. TRUAX. Mr. Speaker, I believe that I am the second Member of the House to speak on this bill who is not a lawyer. Perhaps it makes a difference in viewpoint. I may say that in the State of Ohio there is a population of 7,000,000 people. We have five United States district judges who are doing the work in Ohio and doing it well. Ohio does not need an additional United States district judge today. Ohio is not asking

for an additional judge. When these gentlemen say that the State of California, with a population of 6,000,000 people has eight Federal judges, in my humble opinion, an additional judge is not needed out there.

Mr. Speaker, I am in favor of the bill offered by the gentleman from Virginia. I offered an amendment to the bill when it was pending before this House, which amendment was voted down. I think the bill is a good, meritorious bill, and I would ask the distinguished gentleman from Virginia whether or not he would be willing to separate his bill from this other bill, which ignores all ethics of legislative procedure.

Mr. McFARLANE. Will the gentleman yield?

Mr. TRUAX. I yield to the gentleman from Texas.

Mr. McFARLANE. If we vote this down, we can send it to conference and work out a bill satisfactory to the gentleman from Virginia?

Mr. TRUAX. That is what we ought to do. Let us vote down the conference report and send it back from whence it emanated, and then we can adopt the bill as offered by the gentleman from Virginia, which ought to be adopted. We will then end once and for all this grab bag of judgeships by the other body of this Congress, which is unwarranted and unjustified. I say vote down the conference report.

All progressives and liberals in Congress should be unalterably opposed to the present system of creating judgeships, appointing judges, and countenancing their life tenure of office. They should be opposed to the creation of any new judgeships; they should be opposed to the rate of salary, namely, \$10,000 per year. They should be opposed to any appointment that is effective for a period longer than 4 years. If they are appointed to terms longer than 4 years, as is now the case, they are not responsible to the common people. They are responsible only to their lifelong training and environment. They are responsible only to the cold analytical minds of their legal profession. They look not upon suffering humanity with sympathetic eyes. They view cases of human misery and suffering only through the yellow, musty pages of age-old law books and constitutions.

The legal fraternity invariably believes in and administers a government of the lawyers, by the lawyers, and for the lawyers. Many lawyers in Congress look upon such matters as only a means to an end for their own personal ambitions and desires. They look upon these measures as a vehicle which at some time can be used to transport themselves into a judicial court, sit upon a judicial throne, and reign there for life at \$10,000 a year.

Never a thought give they to the real needs of their country. Never a thought do they exhibit for the problems of the wage workers, farmers, and soldiers. A bounteous fine salary of \$10,000 a year for life does not tend to produce nor create humanitarians. It only tends to produce and perpetuate an oligarchy of the judiciary—a dictatorship of the courts—a regime of the courts, by the courts, and for the courts.

The overwhelming sentiments of the common people indicate that we now have too many judges. We ought to rid ourselves of some instead of adding more judges to the pay rolls. More than 150 United States district judges are sitting on the various benches of the country drawing salaries of \$10,000 per year, yet we are confronted with the astounding knowledge that not one of these United States district judges voluntarily took a cut in his salary when the National Economy Act was passed by Congress which emasculated the pensions of war veterans and reduced the salaries of Federal employees. Personally, I objected not to the reduction in the salaries of Members of Congress. I did object to, and resented with all the forces at my command, the emasculation of pensions of war veterans. I am happy to state that I voted "no" on the famous so-called "Economy Act", and voted upon each and every occasion for restoration of pensions of war veterans.

Not a single iota of evidence has been presented during the consideration of this bill to justify the need for additional judges in the State of California. I am told that the State of California now has eight such judges on the bench drawing salaries of \$10,000 a year, and, if this bill is passed,

the State of California will be given two more district judges making a total of 10 district judges drawing a salary of \$10,000 per year for the State of California, with a population of 6,000,000.

I beg to contrast this unjustified situation with my own State of Ohio where the courts function well for 7,000,000 people with a total of five United States district judges on salaries of \$10,000 per year. I am glad to state that as yet the Ohio courts have not nullified nor negated the acts of Congress as has been done by judges in other States. The courts have set themselves up as the ruling bodies of the United States. They unconstitutionally and unjustifiedly set up their own dictatorship and take upon their shoulders the illegitimate power to veto the acts of Congress and the State legislative bodies.

I would have the people of this country know that we may expect other judicial bills from the Committee on the Judiciary. We must expect an omnibus bill that carries with it authorizations for the creation of 15 more United States district judgeships. That means that \$150,000 per year burden will be added to the backs of the taxpayers. That means that 15 more lawyers of the country will be placed upon the judicial throne, that 15 more lawyers will be placed on the bench, where they can look with contempt upon the struggles of those who live by the sweat of their brows.

Your attention is directed to the undisputable fact that the prohibition era and the Hoover panic and its consequent prolonged depression are responsible for a large portion of the work performed by United States district courts today. Thousands of cases of equity, thousands of bankruptcy cases must come within their purview. With prohibition a thing of the past, with the country out on its way from the depression, with the farmers again rehabilitated, with workmen back at their jobs, then these Federal courts will not have half as much work to do as they have today.

It is a custom of the courts in this country to take arbitrarily a long summer vacation. Let these men work 12 months of the year as do men of other vocations, of other professions, of other businesses, then there will be no surplus of cases on their dockets, they will clean up their work. Let them work the same as others work and the surplus will be a thing of the past and there will be no clamor, hue, and cry for more judges at \$10,000 per year holding office for life. Let our slogan be "Less judges, harder work, and more decisions in the interest of the common people." [Applause.]

[Here the gavel fell.]

Mr. MONTAGUE. Mr. Speaker, this is a rather anomalous situation, where everyone professes to favor the bill but wishes to kill it by a process of parliamentary legerdemain.

Of the merit of the bill there can be no dispute. The method by which additional judgeships got into the bill is aside the case. The merits of the bill itself, however, do not admit of any criticism. The California judges have been recommended by the highest judicial council of the Nation. Proper investigation has been made. That is true also of the circuit judge.

Mr. Speaker, so far as the district judge for my State is concerned, I do not desire to trespass upon the patience of the House any longer.

Mr. YOUNG. Will the gentleman yield?

Mr. MONTAGUE. I yield to the gentleman from Ohio.

Mr. YOUNG. I know this to be a fact, but I would like to ask the gentleman the question because he is a distinguished member of the Judiciary Committee. Is it not a fact that the two United States district judges for the northern district of Ohio disposed last year of more cases than any two of the present district judges for the southern district of California? If those judges out there would work more, judges would not be needed.

Mr. MONTAGUE. I answer the gentleman in this way: We cannot pass upon personal equations. Perhaps one man in this House does more work than four others.

Mr. YOUNG. If these California judges would do the work, they would not need to have intruded them on the gentleman's bill, which was a proper one.

Mr. MONTAGUE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the adoption of the conference report.

The question was taken; and on a division (demanded by Mr. YOUNG) there were—ayes 126, noes 22.

Mr. YOUNG. Mr. Speaker, I challenge the vote on the ground there is no quorum present.

The SPEAKER. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 254, nays 43, not voting 132, as follows:

[Roll No. 134]

YEAS—254

Adair	Dockweiler	Kahn	Ramspeck
Allen	Dondero	Kee	Randolph
Andrew, Mass.	Dorsey	Kennedy, Md.	Ransley
Arends	Doughton	Kenney	Rayburn
Arnold	Doxey	Kerr	Reed, Ill.
Ayers	Drewry	Kinzer	Reed, N. Y.
Bacharach	Driver	Knutson	Rich
Barden	Duffy, Ohio	Kocialkowski	Richardson
Beiter	Duffy, N. Y.	Kopplemann	Robertson
Biermann	Dunn, Pa.	Kramer	Robinson, Utah
Blackney	Eagle	Kvale	Robson, Ky.
Bland	Eaton	Lambeth	Rogers, Mass.
Blanton	Eckert	Lanham	Rogers, N. H.
Bolleau	Edmiston	Lea, Calif.	Rogers, Okla.
Boland	Ekwall	Lee, Okla.	Romjue
Boylan	Ellenbogen	Lehlbach	Russell
Brewster	Engel	Lemke	Ryan
Brooks	Evans	Lesinski	Sadowski
Brown, Ga.	Faddis	Lewis, Colo.	Sanders, Tex.
Brunner	Farley	Lord	Schaefer
Buchanan	Fenerty	Lundeen	Seger
Buck	Fish	McAndrews	Shanley
Buckbee	Flannagan	McClellan	Short
Buckler, Minn.	Focht	McCormack	Smith, Conn.
Caldwell	Ford, Calif.	McLaughlin	Smith, Va.
Cannon, Mo.	Ford, Miss.	McMillan	Smith, W. Va.
Carlson	Frey	Mahan	Snell
Carmichael	Fuller	Mapes	Snyder
Carpenter	Fulmer	Marshall	South
Cartwright	Gavagan	Martin, Colo.	Spence
Celler	Gearhart	Martin, Mass.	Stack
Chandler	Gilchrist	Mason	Steagall
Chapman	Gingery	Massingale	Stubbs
Christianson	Goodwin	Maverick	Summers, Tex.
Church	Granfield	May	Taber
Citron	Greenway	Mead	Taylor, Colo.
Colden	Greever	Merritt, N. Y.	Taylor, Tenn.
Cole, Md.	Gregory	Michener	Terry
Cole, N. Y.	Guyer	Millard	Thomason
Colmer	Gwynne	Miller	Thurston
Connery	Halleck	Monaghan	Tinkham
Cooley	Hancock, N. Y.	Montague	Tolan
Cooper, Tenn.	Hancock, N. C.	Mott	Turner
Costello	Harlan	Murdock	Turpin
Cox	Hart	Norton	Umstead
Cravens	Harter	O'Day	Utterback
Crawford	Healey	O'Leary	Vinson, Ky.
Crosby	Hess	O'Neal	Wadsworth
Cross, Tex.	Higgins, Mass.	Owen	Warren
Crosser, Ohio	Hill, Ala.	Parks	Weaver
Crowther	Hill, Samuel B.	Parsons	Welch
Cullen	Hobbs	Patman	Werner
Daly	Hoeppel	Patterson	West
Darrow	Holmes	Patton	Whelchel
Deen	Hope	Pearson	White
Delaney	Huddleston	Peterson, Fla.	Whittington
Dempsey	Hull	Peterson, Ga.	Wigglesworth
Dickstein	Imhoff	Pfeifer	Williams
Dies	Jacobsen	Pierce	Wilson, Pa.
Dingell	Jenckes, Ind.	Pittenger	Wolcott
Dirksen	Jenkins, Ohio	Plumley	Wolfenden
Disney	Johnson, Okla.	Powers	Zimmerman
Ditter	Johnson, W. Va.	Rabaut	
Dobbins	Jones	Ramsay	

NAYS—43

Amle	Hildebrandt	McKeough	Secrest
Boehne	Hill, Knute	Marcantonio	Smith, Wash.
Castellow	Hoffman	Mitchell, Tenn.	Tarver
Crowe	Kennedy, N. Y.	Moritz	Taylor, S. C.
Dietrich	Kloeb	Nelson	Tonry
Fiesinger	Kniffin	O'Connor	Truax
Fletcher	Lambertson	O'Malley	Wallgren
Gehrmann	Larrabee	Pettengill	Wearin
Gray, Ind.	Luckey	Polk	Young
Greenwood	Ludlow	Reilly	Zioncheck
Griswold	McFarlane	Sauthoff	

NOT VOTING—132

Andresen	Bankhead	Blinderup	Brown, Mich.
Andrews, N. Y.	Beam	Bloom	Buckley, N. Y.
Ashbrook	Bell	Bolton	Bulwinkle
Bacon	Berlin	Brennan	Burch

Burdick	Gambrill	McLean	Schulte
Burnham	Gasque	McLeod	Scott
Cannon, Wis.	Gassaway	McReynolds	Scrugham
Carter	Gifford	McSwain	Sears
Cary	Gildea	Maas	Shannon
Casey	Gillette	Maloney	Sirovich
Cavicchia	Goldsborough	Mansfield	Sisson
Claborne	Gray, Pa.	Meeks	Somers, N. Y.
Clark, Idaho	Green	Merritt, Conn.	Starnes
Clark, N. C.	Haines	Michell, Ill.	Stefan
Cochran	Hamlin	Montet	Stewart
Coffee	Hartley	Moran	Sullivan
Collins	Hennings	Nichols	Sutphin
Cooper, Ohio	Higgins, Conn.	O'Brien	Sweeney
Corning	Hollister	O'Connell	Thom
Culkin	Hook	Oliver	Thomas
Cummings	Houston	Palmisano	Thompson
Darden	Johnson, Tex.	Perkins	Tobey
Dear	Keller	Peyster	Treadway
DeRouen	Kelly	Quinn	Underwood
Doutrich	Kimball	Rankin	Vinson, Ga.
Driscoll	Kleberg	Reece	Walter
Duncan	Lamneck	Richards	Wilcox
Dunn, Miss.	Lewis, Md.	Rudd	Wilson, La.
Elcher	Lloyd	Sabath	Withrow
Englebright	Lucas	Sanders, La.	Wolverton
Ferguson	McGehee	Sandlin	Wood
Fernandez	McGrath	Schneider	Woodruff
Fitzpatrick	McGroarty	Schuetz	Woodrum

So the conference report was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. Sullivan with Mr. Bolton.
 Mr. Lucas with Mr. McLeod.
 Mr. Starnes with Mr. Cooper of Ohio.
 Mr. Fitzpatrick with Mr. Stewart.
 Mr. Somers of New York with Mr. Hartley.
 Mr. Buckley of New York with Mr. Perkins.
 Mr. Burch with Mr. Doutrich.
 Mr. Berlin with Mr. Bacon.
 Mr. Rankin with Mr. Kimball.
 Mr. Cochran with Mr. Carter.
 Mr. Bloom with Mr. Hollister.
 Mr. Scrugham with Mr. Burnham.
 Mr. Sears with Mr. Maas.
 Mr. Sutphin with Mr. Higgins of Connecticut.
 Mr. Rudd with Mr. Tobey.
 Mr. Oliver with Mr. Collins.
 Mr. McSwain with Mr. Englebright.
 Mr. Bulwinkle with Mr. Andresen.
 Mr. Mansfield with Mr. Culkin.
 Mr. Beam with Mr. Gifford.
 Mr. Clark of North Carolina with Mr. McLean.
 Mr. Cary with Mr. Treadway.
 Mr. Darden with Mr. Wolverton.
 Mr. Sandlin with Mr. Thomas.
 Mr. Sabath with Mr. Reece.
 Mr. Sisson with Mr. Burdick.
 Mr. Woodrum with Mr. Woodruff.
 Mr. Haines with Mr. Stefan.
 Mr. Wilson of Louisiana with Mr. Withrow.
 Mr. Kelly with Mr. Merritt of Connecticut.
 Mr. Wilcox with Mr. Cavicchia.
 Mr. Vinson of Georgia with Mr. Andrews of New York.
 Mr. Thom with Mr. Schneider.
 Mr. Green with Mr. Scott.
 Mr. Fernandez with Mr. Richards.
 Mr. Corning with Mr. Dear.
 Mr. Nichols with Mr. Montet.
 Mr. Claborne with Mr. Mitchell of Illinois.
 Mr. McGrath with Mr. Lamneck.
 Mr. Bankhead with Mr. Brown of Michigan.
 Mr. Casey with Mr. McGehee.
 Mr. Moran with Mr. Clark of Idaho.
 Mr. Cummings with Mr. O'Connell.
 Mr. Sanders of Louisiana with Mr. Quinn.
 Mr. Driscoll with Mr. Gambrill.
 Mr. Sweeney with Mr. Gassaway.
 Mr. Walter with Mr. Hamlin.
 Mr. Kleberg with Mr. Underwood.
 Mr. Keller with Mr. Hook.
 Mr. Johnson of Texas with Mr. Hennings.
 Mr. Gray of Pennsylvania with Mr. Goldsborough.
 Mr. Houston with Mr. Schuetz.
 Mr. Gasque with Mr. Ferguson.
 Mr. Dunn of Mississippi with Mr. Lewis of Maryland.
 Mr. O'Brien with Mr. Ashbrook.
 Mr. McReynolds with Mr. Lloyd.
 Mr. McGroarty with Mr. Bell.
 Mr. Maloney with Mr. Gildea.
 Mr. DeRouen with Mr. Gillette.

Mr. HARLAN changed his vote from "no" to "aye."

The result of the vote was announced as above recorded.

On motion of Mr. MONTAGUE, a motion to reconsider the vote by whom the bill was passed was laid on the table.

THE POLICIES OF THE ROOSEVELT ADMINISTRATION

Mr. TABER. Mr. Speaker. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. TABER. Mr. Speaker, where is America headed? What are her dictators doing to her? What are her dictators doing to the American workingman? Where is America's standard of living?

These are questions which it is time for patriotic Americans to talk about. These are questions to the seriousness of which the American people must be aroused if there is to be any liberty, if there is to be any security, if there is to be any opportunity for the man in America who wants to make something of himself by work, if we are to maintain the standards of living of America.

That the policies of the Roosevelt administration would throw us into a panic, the like of which this country had never seen, began to be evident by January 1, 1933. That such policies were deliberately designed to create that situation did not appear so clear at the time. It simply appeared that there was a lack of a sense of responsibility, a lack of balance, a lack of appreciation of the campaign promises of stable constitutional government which Roosevelt had made on the stump in the 1932 campaign and to which the old-fashioned Democratic Party was always committed. It became apparent after the inauguration on March the 4th that an attempt was to be made by the administration to create a dictatorship, to take away from the Congress all of its authority and have it delegated to the President.

A frightened Roosevelt administration did pass the Emergency Banking Act and other bills to reduce the expenses of the Government, which, in a measure, caused a business upturn in May and June 1933, but on May 12, 1933, the A. A. A. bill was passed and on June 16, 1933, the N. R. A. bill was passed, delegating enormous powers to the Executive and making him practically a dictator and fooling away billions of dollars of the people's money.

On July 7, 1933, the A. A. A. was proclaimed effective. Processing taxes were levied on farm products despite the fact that Mr. Roosevelt had many times said there never should be taxes on food or clothes, and in 3 weeks the price of wheat dropped from \$1.25 a bushel to 95 cents, just the amount of the processing tax.

On July 15, the N. R. A. was proclaimed. The N. R. A. created an overlordship of business. It raised prices, stopped production, threw many out of work, and reduced the size of the pay envelopes of those whose jobs were left. During all of these times the number of people out of work has increased. On July 15, 1933, the publication, *Weekly Survey of Current Business*, published by the United States Department of Commerce, showed for business activity a figure of 100, from a low of 60 in March 1933. From July 15, 1933 on, there was a continuous decline until on November 1, 1933, it had reached a figure of 70. There was a slight increase in the rest of 1933 and through 1934 the figure hovered around 80. At the end of 1934 the figure became about 83. It started in 1935 with a little higher level, but it has now gone down to practically 80 and the business activity curve is now below both the 1933 and 1934 levels for this month. Unemployment figures are at their highest. Relief expenditures will this year reach a figure of \$150,000,000 for the month of June 1935, as against approximately \$100,000,000 in 1934.

Relief is administered in a high-handed, political, extravagant, and thoroughly incompetent manner. It is carried on with the idea of preventing the people from going to work. If we could have relief administered by local people unhampered by the high-handedness and the proven incompetence of Harry Hopkins we could better meet the needs of the people and save money.

We now have a scheme of spending \$2,000,000,000 putting people to work on foolish projects which are not useful, under the leadership of Harry Hopkins, the renowned Socialist. This will further demoralize our people, because when a man is working at something that is not useful he has no heart in it. It has a worse effect on the morale of the people even than direct relief.

The number of people upon relief has risen from a figure of 15,750,000 in March 1933, to 22,000,000 in March 1935, and it cannot be much below that now. This administration is completely destroying the morale of our people, destroying their reserves set up for old age and emergencies, and throwing them bodily on relief.

To make this situation more acute, the administration, with the deliberate idea of throwing more people out of work has entered into reciprocal-trade agreements with other countries to let their farm products and other goods into this country at lower rates of duty, and has thereby thrown more people out of work. The purpose of this reciprocal-tariff scheme, according to Secretary Wallace, as appears in his testimony before the Ways and Means Committee on the 8th of March 1934 on pages 45 to 61 of the hearings, was to get rid of those industries which paid higher wages than were paid in foreign countries for the same work.

At the same time that the A. A. A. is attempting to reduce production of cotton, corn, and wheat, the Senate is passing a bill designed to appropriate \$1,000,000,000, and add that to our debt, to set up the tenant farmers in business so they can raise more wheat, cotton, and corn. We are also having many hundreds of millions of dollars fooled away on irrigation projects designed to put more land under cultivation to raise corn, cotton, and wheat.

This is but evidence of the contradictory policies of the Roosevelt administration.

Roosevelt promised us economy. He has spent, in a little over the 2 years since his inauguration, approximately \$18,000,000,000, and this includes the postal deficiency, but not the postal-revenue expenditures; and the revenues of the Government in that time have been less than \$7,000,000,000. We have added to the national debt approximately \$9,000,000,000, and he still has appropriated and unexpended, which the people will have to pay, \$12,000,000,000. This has completely unbalanced the Budget. He has not had the courage to place the taxes on the people to make these expenditures. Every foolish move he has made has prevented business from providing employment; has prevented the people from having work.

The taxes he has proposed will not raise any revenue whatever, but will drive the wealthy out of productive enterprise which provides work for the people into tax-exempt securities. This is not the way to provide employment for the people, but the way to drive them out of work.

If the people are to have better houses to live in, if they are to have more to eat, if they are to have better clothes to wear, and more comforts, it must come as a result of a policy which will provide private employment. Today, if we would stop the foolish Government expenditures, balance the Budget with taxes, and stop doing the foolish things which destroy our farmers and our working people, the improvements required upon industrial plants alone would run five times the foolish expenditures made by the Government to demoralize our people.

What Roosevelt terms reform is in most cases not reform but schemes to wreck business and keep people out of work.

I charge, because there is no other explanation for the operations of the Roosevelt administration, that the efforts of President Roosevelt have been directed deliberately toward those policies which would naturally destroy confidence, throw people out of work and on relief, establish communism and State ownership of all endeavor, but most of all, establish a dictatorship with Franklin D. Roosevelt as dictator.

Where, I ask, is there a place for a labor union in a dictatorship; where is the opportunity for the workingman to have a job; where is the opportunity for the workingman to improve his conditions? He and everyone else will be a slave, just as they are in Russia. Is it not time for the people in America to arouse themselves, throw off the yoke that binds them, demand their liberty, give the farmer an opportunity to operate his business at a profit, and instead of having fake measures for relief of farmers have those that will accomplish something and not destroy them. Now is the time for every good American to come to the aid of his country and take his place and bear his share of the responsibility of citizenship. Throw off the Roosevelt yoke and stand for the improvement and recovery of America.

RELIGIOUS STATUS OF AMERICAN CITIZENS RESIDENT IN MEXICO

Mr. HIGGINS of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER. Is there objection?

There was no objection.

Mr. HIGGINS of Massachusetts. Mr. Speaker, on July 16 a petition for an inquiry by the United States into the religious status of American citizens resident in Mexico was presented to the Honorable Franklin D. Roosevelt, President of the United States, by a delegation representing 250 Members of the House of Representatives. The text of this petition reads as follows:

TEXT OF PETITION

At the present time it is reported that there are 14 States in the Republic of Mexico where no minister of religion, be he Christian or Jew, is permitted to exercise his sacred functions. Taking cognizance of this condition, the British Secretary of State for Foreign Affairs, Sir John Simon, has promised the members of the House of Commons that he would interest the British Minister at Mexico City, as well as the British consular officials throughout the aforesaid 14 States of Mexico, to institute an inquiry as to the facilities for Divine worship available to British citizens resident in or visiting these communities.

In view of the fact that there are more American citizens of all denominations than there are British citizens, both resident in and visiting the 14 States where no minister of religion is permitted, the question naturally arises whether a similar inquiry might not be made in the Republic of Mexico through the American Embassy and the American consular officials. The undersigned Members of Congress, together with the full membership of the committee, believe that some simple and constructive measure ought to be taken in order to ascertain the facts on this situation, evidencing an affirmative interest in the religious rights of American citizens of all faiths and creeds.

MEMBERS OF DELEGATION WHO VISITED THE WHITE HOUSE

The members of the committee which presented this petition at the White House were: Representatives JOHN P. HIGGINS, of Massachusetts, chairman, and CLARE GERALD FENERTY, of Pennsylvania, co-chairman; WILLIAM M. CITRON, HERMAN P. KOPPLEMANN and JAMES A. SHANLEY, of Connecticut; JOHN J. BOYLAN, EMANUEL CELLER, JAMES M. MEAD,

RICHARD J. TOMRY, HAMILTON FISH, Jr., and THOMAS H. CULLEN, of New York; JOHN W. MCCORMACK, GEORGE HOLDEN TINKHAM, WILLIAM P. CONNERY, and ARTHUR D. HEALEY, of Massachusetts; PETER A. CAVICCHIA and EDWARD J. HART, of New Jersey; J. BURRWOOD DALY, of Pennsylvania; JOHN D. DINGELL and ALBERT J. ENGEL, of Michigan; RAYMOND S. MCKEOUGH, of Illinois; MARTIN L. SWEENEY, of Ohio; and RICHARD J. WELCH and JOHN M. COSTELLO, of California.

In presenting this petition, the committee also gave President Roosevelt a rather lengthy memorandum, prepared by Representatives JOHN P. HIGGINS, of Massachusetts, and CLARE GERALD FENERTY, of Pennsylvania, co-chairman of the voluntary House committee interested in this cause. The text of this memorandum reads as follows:

MEMORANDUM TO THE HONORABLE FRANKLIN D. ROOSEVELT, PRESIDENT OF THE UNITED STATES, WITH RESPECT TO THE PETITION OF THE MEMBERS OF THE VOLUNTARY CONGRESSIONAL COMMITTEE ON MEXICO WITH PARTICULAR REFERENCE TO THE RELIGIOUS RIGHTS OF AMERICAN CITIZENS

(By JOHN P. HIGGINS (D), of Massachusetts, and CLARE GERALD FENERTY (R), co-chairman, Pennsylvania)

The first point which our committee wishes to emphasize is that we come as champions of religious liberty in behalf of all groups and denominations in Mexico, especially wherever the religious or educational rights of our American citizens have been violated. In other words, our representations are not made in the name of one particular group but in the name of all those who believe in God and feel the conscientious obligation to worship the Supreme Being. The movement in Mexico has been admirably pointed out in a recent statement by Dr. Charles S. MacFarland, secretary general emeritus of the Federal Council of Churches of Christ in America, when he says that the persecution is not anti-Christian or anti-Jewish but anti-God. It is a direct assault upon the fundamental rights of conscience.

In order to illustrate this point, the members of our committee direct attention to the fact that more than two-thirds of the 250 signatures upon our petition, a copy of which is attached, which calls for an inquiry as to the facilities available for religious worship by Americans in 14 States in Mexico, are those of Protestant and Jewish Congressmen. These gentlemen evidently agree with the editorial judgment of the organ of the Episcopal Church in this country, which recently declared that the anti-God movement undertaken by the Mexican Government was "a major scandal in world affairs." Numerous Members of Congress have studied the editorials that have appeared in the Christian Index of Georgia, the Christian Century, and the American Hebrew, as well as the formal statement of the National Council of Churches and Christians, and are convinced that the atheistic drive in Mexico is a matter of international concern, especially where it infringes upon the rights of American citizens who desire to worship God according to the dictates of their conscience.

Mr. President, although this committee is convinced that numerous, sincere, and salutary efforts have been made by the American Government in order to bring the Mexican Government to a full realization of the gravity of this problem, the members of the committee, nevertheless, feel obligated to voice their concern that absolutely nothing of an official public character has been put on record to show American concern for the traditional American principle of religious liberty; particularly where the rights of American citizens are involved. This concern, it may be added, is being felt with an increased depth of conviction by all classes and denominations in continental United States. As one of our members express the gist of our position to the Honorable Cordell Hull, American Secretary of State, it is the deeply rooted conviction of the members of this committee that there should be on record some overt statement or public statement which would clearly indicate in the eyes of our own people and to the expectant gaze of the civilized world that the American Government is entirely disassociated from the official persecution of religion in Mexico. It is the belief of our committee that this public statement can be couched in such friendly, courteous, and dignified language that no possible offense can be taken by any official of the Mexican Government. Far from endangering the good-neighbor policy so carefully developed by the United States Department of State, under your administration, Mr. President, this public championing of the principle of religious liberty would win the most cordial admiration both from the vast bulk of the Mexican people and from the populations of all the other Latin American nations.

Above all, Mr. President, the committee is unalterably opposed to any semblance of interference or intervention in Mexico. This is a question of the moral vindication of an ethical principle. The members of our committee desire that American intervention of whatever character should be stopped immediately. There is an impression in many quarters that there has been intervention of an undesirable character, in the sense that an attempt has been made to block the efforts of those interested in this campaign for human rights. It has been publicly charged and never denied that the administration gave orders that there would be no hearings either on the Borah resolution or on any other of the Mexican resolutions now apparently buried in committee in both the House and the Senate. These are indications that, as far as the public is concerned, the United States Government has scarcely mani-

festated an attitude of neutrality, but has actively taken one side as against the other. That the best of intentions have motivated this policy we have no doubt, but with all possible deference and respect it is our duty to submit for your consideration the express conviction of a majority of your Congress that representations, unofficial and discreet in intent, are not enough. In order to illustrate that the desires of the committee are reasonable, fair, and temperate, I am taking the liberty to submit, Mr. President, drafts of proposed public statements that, in the judgment of the full membership of our committee, would effectively give public notice to the world and to Mexico that the American Government is vitally interested in the principle of religious liberty.

"The Government of the United States has not assumed to dictate the policy of other nations, or to make suggestions as to what the municipal laws should be or as to the manner in which they should be administered. Nevertheless, the mutual duties of nations require that each should use its power with due respect for the result which its exercise will produce on the rest of the world. It is in this respect that the religious conditions prevailing in Mexico whether they regard Protestant, Catholic, or Jew, are brought to the attention of the United States. It is an accepted practice under international law for one nation to use its good offices with a view to remove obstacles that may affect the cordiality that should exist between friendly governments and peoples.

"I am fully aware that millions of American communicants of all denominations view with increasing apprehension the existence of religious disabilities in our sister Republic of Mexico.

"I believe that the common consent of mankind and the better universal public opinion favor the utmost development of religion with the fullest opportunities for its teachings and practices, and I earnestly vouchsafe the hope that this idea will find even greater unanimity in the family of nations."

When diplomatic messages such as those outlined above are dispatched in a spirit of friendship to another sovereign nation, there is no reasonable ground for supposing or alleging that intervention or interference is contemplated. This has been made clear in recent days by the statesmanlike, diplomatic representations by the Honorable Cordell Hull, American Secretary of State, to the Ambassador of the Royal Italian Government. Was there a single voice raised in protest against this act of diplomatic procedure? What critic dares to raise the cry of "intervention" or "interference?"

To be sure it will be alleged in support of the procedure in this instance, that the American Secretary of State was justified primarily on the basis of the Kellogg Pact, but our committee believes that there are treaty provisions between the United States and Mexico which furnish a similar basis for remonstrance and protest. The terms of the Mexican agreement, guaranteeing full religious liberty as a condition of recognition, are quoted in the CONGRESSIONAL RECORD (Apr. 25, 1935, p. 6431).

On the other hand it is a matter of recorded history that this administration did actually inspire a demonstration of Senatorial protest against the persecution of Jews in Germany, on June 10, 1933, when eight United States Senators, led by the leader of the Democratic majority, the Honorable JOSEPH T. ROBINSON, and admittedly in the language of the Honorable J. HAMILTON LEWIS, administration whip, acting under instructions from the administration, rose in indignation in the Senate to denounce the religious intolerance in Hitler's Germany. No one on that occasion, Mr. President, suggested or spoke of "intervention" or "interference." In general, it may be said that this was regarded as an intelligent act of high-minded statesmanship. In the light of these precedents, Mr. President, is it not fair to inquire, with every mark of deference and respect, why the same administration should now discourage efforts to bring about a public protest?

Indeed the contrast in the administration attitude, both in regard to Ethiopia and Germany, is so marked that suspicion has been aroused that peradventure Your Excellency has been partially misled as to the wishes of the religious leaders who are interested in this problem. Foreseeing the possibility of such a misunderstanding, we, as chairmen of this committee have brought with us letters and statements from prominent prelates and religious authorities of many denominations.

From these declarations it must be clear that the leaders are not satisfied with a policy of official silence. In order not to burden Your Excellency with lengthy citations, we quote only one letter, couched in the most emphatic and striking language by an American cardinal, a prince of the church, known for his intellectual ability and love of the spirit of universal charity. His words on the subject are clear and unmistakable:

"If a great many more were to do what you have done, the Washington administration might, by this time, have done something for Christians and Jews in that unhappy land. Sooner or later right will prevail; but no thanks should be due to those in Washington who have shirked their duty, and will be remembered for their failure to act."

As for the argument that the Mexican Government wishes to save its honor in coming to an agreement on religious questions, it may be pointed out that the indulgence and the silence of the United States for 20 years have not borne such fruit as may be desired but that on the contrary the Mexican governmental attitude toward all religions has continued almost daily to go from bad to worse. Eight months ago, Mr. President, the brunt of the persecution in Mexico was centered against the Catholic church. Now it has become as violently anti-God as the governmental attitude in Soviet Russia.

Consequently, Mr. President, the members of this committee believe, basing their appeal on numerous precedents in the office of the American Secretary of State and submit as their deliberate judgment the opinion that official silence is neither an adequate remedy for the evils they deplore, nor an honorable position of this Government to maintain. In our judgment, the time has come to publish to the world our deep concern in this question of the rights of conscience. In our judgment, the irreducible minimum which can be expected, in default of some public pronouncement, is to give official instructions from the United States Department of State to the American embassy and the American consular offices in Mexico to the effect that the inquiry suggested in the congressional petition be undertaken without delay. This would make it clear in the words of the petition itself that the group representing the United States of America wishes to evidence "an affirmative interest in the religious rights of American citizens of all faiths and creeds."

The committee believes that this is an eminently fair, moderate, and reasonable request. It further believes that, if acted upon favorably, it will prove by its beneficial results to have been an intelligent act of high-minded statesmanship.

RESPONSE OF PRESIDENT ROOSEVELT

In response to this petition and this statement, prepared by the chairman of the committee, President Roosevelt, himself, wrote out the following memorandum for the Members of Congress and for the press. The memorandum reads:

The President stated that he is in entire sympathy with all people who make it clear that the American people and the Government believe in freedom of religious worship, not only in the United States but also in all other nations.

HAS CONGRESS ABDICATED?

Mr. MOTT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including therein a radio address made by myself on the 5th of July.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. MOTT. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following address which I delivered at Washington, D. C., over the National Broadcasting Co. network on July 5:

The life of the United States as a nation began and has continued under the particular form of government which we now have. It is a form of government which obtains nowhere else on earth. Although it is less than 150 years old, it has endured longer without change in form than any other government in the world. Under it the people of the United States have grown to be the richest, the most powerful, the freest and the most secure of all people of the earth. If there are those who have been inclined to doubt this during the recent years of the depression the most unfortunate of them need only to compare their lot with that of the people of other countries during the same period.

Under our form of government the people themselves, who are the real rulers and from whom all governmental authority is derived, have always been able to meet and solve every problem and every crisis that has risen in our Nation's life. They will continue to do this, in my opinion, so long as they maintain the form of government which has enabled them to do it in the past, and they will solve our present problems if only they will not depart from that theory and that system of government which for 150 years has been distinctly and uniquely their own.

The form of our government is that prescribed by the Constitution, which is the fundamental law of the land and which was made and adopted by the people themselves. It is a grant of limited power from the people to the Federal Government. The Constitution of the United States proceeds upon the theory that all governmental authority is vested in the people and that the exercise of that authority shall be at all times in control of the people. In order to insure this the Constitution has provided that the power granted under it to the Federal Government shall be exercised through the agencies of three separate and distinct departments or branches, each having its own exclusive jurisdiction and function, and that the authority of one branch may not trespass upon or interfere with the function or authority of the others.

The first branch of this governmental agency is the legislative branch, which is composed of a Congress of elected representatives or agents of the people in whom is vested the sole duty and responsibility of making the law. The members of this branch of the Federal Government, both in the House and Senate, are responsible directly to the people who elect them and to no one else.

The second branch of Federal Government is the executive branch, consisting of a President, who is elected by the people, and of the several hundred executive officers ranging from Cabinet members down through the bureau chiefs, department heads, etc., who are appointed by and are responsible to the President. It is the duty of the executive department of the Government to administer the law which the Congress makes. The President is also authorized to recommend legislation for the consideration of Con-

gress and is given the conditional power of the veto which, however, may be overridden by a two-thirds majority of the Congress. So that the full lawmaking authority of the Federal Government always remains in Congress.

The third branch of the Federal Government is the judicial branch, at the head of which is the Supreme Court of the United States. It is the duty of the Supreme Court to interpret the law and to see to it that both the law itself and the administration of it are within the limitations prescribed by the Constitution.

The necessity for a judicial or law-interpreting branch of the Government arises from the fact that the people of the United States in setting up the machinery of Federal Government gave to the Federal legislature only limited lawmaking power. They granted to Congress the right to make certain kinds of law and prohibited it from making certain other kinds. Within the limitations of the Constitution, however, the lawmaking jurisdiction of Congress is not only supreme but exclusive. This constitutional grant of authority from the people to the Federal Government, let me repeat, is limited by the terms of the Constitution. That instrument gives to the Federal Government the right to exercise only a part of the whole governmental power belonging to the people and provides that all power not expressly granted by the Constitution to the Federal Government shall be vested in the States or in the people themselves.

The power vested in the President by the Constitution is likewise limited. Therefore, whatever may be the case in other governments, under our own system it is absolutely indispensable that there be a law-interpreting branch with authority, in any case directly affecting the constitutional rights of the people, to declare whether an act of the Congress or an action of the President was such an act or action as the people's constitution permits.

The Constitution of the United States is based upon the fundamental theory that ours is a Government of law and not of men. It, therefore, denies to officers of the Federal Government, who are simply agents of the people, any power whatever except that given them by law. Furthermore, it denies to an executive officer any power to make the law which he is charged with administering, and it denies to a legislative officer any power to administer the law which he makes. This is a part of the theory of checks and balances, which is the heart of the Constitution, and the strict adherence to which during the 150 years of our national existence has been responsible not only for the stability of the Government but for the retention of governmental authority in people.

Since the World War, and particularly since the beginning of the world-wide depression which followed the war, there has been a growing tendency on the part of executive officers of governments throughout the world to subordinate the legislative branches of those governments to the executive branch. In several European countries this form of executive usurpation has gone so far that parliamentary government has disappeared altogether and the chief executives of those countries at present not only administer the law but also make it.

The question is repeatedly asked whether the Government of the United States has been able to escape this modern tendency to subdue the power of the lawmaking branch of the Government and to concentrate all authority in the executive department. Since it is obvious that under our form of Government the Chief Executive cannot usurp legislative power unless the Congress itself surrenders that power to him, let us try to answer this question first by inquiring by what methods, if any, it is possible for Congress to do this.

There are three methods by which Congress may abdicate its lawmaking power. The first is by enacting only those laws which the President demands and by refusing to permit consideration of any others. The second is by allowing the President himself, or some of his appointees in the executive departments, to actually write the law and then to have the Congress go through the legal formality of enacting it. The third method is by granting to the President the power to make law himself upon certain subjects through the issuance of orders or proclamations having the force and effect of law. All of these methods of abdicating its power is forbidden to Congress by the Constitution. Therefore, if the Congress has done any of these things it is obvious that to the extent it has done them it has abdicated its lawmaking power to the President.

With a very few exceptions no major laws have been enacted during the present administration except those which have been specifically demanded in messages sent to the Congress by the President. Of the small number of important bills passed without the President's orders most have been promptly vetoed, and the administration majority in Congress is so overwhelming that the overriding of a veto in the Seventy-third and Seventy-fourth Congresses has been practically impossible. There are many important bills now lying in committees which have been introduced by individual Members in pursuance of their constitutional duty and responsibility as lawmakers. The enactment of some of these bills has been long demanded by millions of people of the United States, and in the case of at least one of such bills the legislatures of a majority of the States have formally petitioned Congress to enact it. Yet until the President says that he wants any or all of these laws enacted there is not the remotest possibility of their being considered even by a committee of Congress. In the Congress of the United States the majority is supreme, and when that majority numbers more than 3 to 1 and when it is dominated by the wishes of the Executive administration in power, the right of the minority for all practical purposes of lawmaking is done away

with whenever the desires of the minority conflict with the personal views of the Chief Executive.

Thus through Executive domination of the legislative majority the Congress has progressed far along the road to abdication under the first method I have mentioned.

Again, with but a few exceptions, no bill of major importance enacted during the present administration has been written or drafted or even conceived by an individual Member of Congress or by any committee of Congress. Practically all have been prepared by executive officers of the Government, who are not responsible either to the Congress or to the people. When a bill thus prepared is ready for introduction it is sent by the executive department to the chairman of the committee of Congress which is to report it to the House, and the chairman's name is then printed on the bill as the author of it. Important legislation sent to committee in this manner has been reported to the House without any consideration worthy of that name, without changing a single line or word and under gag rules which have been forced upon the House by the majority party. Under these gag rules no amendment to the bill is permitted. All of this has been done at the demand of the President, whose leaders on the majority side see to it that his orders are carried out by their followers. In this manner the second method of abdication is being effected.

Executive usurpation of legislative power is carried further by the enactment of laws giving to the President authority to make law himself upon certain subjects without consulting Congress at all. Examples of this have been the Economy Act, the Tariff Act of 1933, the Taylor grazing bill, the Bankhead cotton bill, and many others, all of which give the President power to make law. In the 1933 Tariff Act, for example, the Congress surrendered to the President practically all of its effective tariff-making power by authorizing the President, in his own discretion, to raise or lower any existing tariff by 50 percent, merely by issuing an Executive order to that effect.

It must be obvious to all thoughtful people that if this process of abdication is carried to its ultimate and logical conclusion, it will be only a matter of time when there will be no more law-making power left in Congress, and that when that time comes there will be no reason for continuing to have a legislative branch of the Government at all. That point has already been reached in other countries, notably in Italy and in Germany, whose parliaments, having abdicated completely to the chief executives of those nations, have been dissolved altogether.

The question now naturally arises: Who is responsible for this situation which is undermining the very foundation of our system of government, and what can be done about it?

The responsibility for this gradual abdication of Congress lies with the people themselves. In their despair during the recent depressing years and in their desire to find a short cut to the solution of their economic problems, the people of this country have unconsciously allowed themselves to follow the example of the people in Europe and to try the experiment of government by men instead of government by law. They did this by electing to the Congress of the United States an overwhelming majority of men whose very campaign pledges should have disqualified them in the eyes of the people as Federal lawmakers under our system of government.

These men did not pledge themselves to make law. They did not pledge themselves even to carry out the declarations of their own party platform in regard to the kind of law that should be enacted. Instead they pledged themselves, as Members of the law-making body, to support the head of the executive department of the Government, and to support him 100 percent. I repeat that such a pledge disqualifies its maker for a seat in the lawmaking branch of the Government. A pledge of this kind may be a proper pledge for a Cabinet officer to make, or for any other officer in the executive branch of the Government who is appointed by the President and is responsible to him. But when a Member of the legislative branch makes that pledge he precludes himself in advance from functioning as a legislator, because by it he pledges himself to enact only such a law as the President may want.

As the responsibility for this situation lies with the people so also does the remedy. The Constitution, as I have said, vests all governmental power in the people. It is for the people to say whether they want a Congress of their own representatives who are pledged to perform their constitutional duty and responsibility as independent lawmakers, or whether they want a Congress composed of a majority which has pledged itself in advance not to do that. The representatives of the people who framed the Constitution knew, of course, that the people themselves would sometimes make mistakes. Wisely they provided in that document a speedy and convenient method for the people to correct their mistakes. That method is the constitutional provisions for frequent elections. If the people decide they have made a mistake in allowing their representatives in Congress during the past 3 years to depart from that adherence to our form of government which the Constitution requires they may correct that mistake when again the time comes for them to select those who are to represent them in the lawmaking body of their country.

Mrs. GREENWAY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include certain statistics showing the need of an additional judge in Arizona.

The SPEAKER. Is there objection to the request of the gentlewoman from Arizona?

There was no objection.

COMMITTEE ON ACCOUNTS

Mr. WARREN. Mr. Speaker, I ask unanimous consent that the Committee on Accounts may sit tomorrow during sessions of the House.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

STANDARDS OF CLASSIFICATION FOR TOBACCO

Mr. SMITH of Virginia. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 294.

The SPEAKER. The gentleman from Virginia calls up a resolution which the Clerk will report.

Mr. McFARLANE. Mr. Speaker, I make the point of no quorum.

The SPEAKER. The Chair will count.

Mr. McFARLANE. Mr. Speaker, I withdraw the point of no quorum.

The Clerk read as follows:

House Resolution 294

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H. R. 8026, a bill to establish and promote the use of standards of classification for tobacco, to provide and maintain an official tobacco inspection service, and so forth. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The question is on the adoption of the resolution.

Mr. McFARLANE. Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is not a quorum present.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 884. An act for the relief of Lt. Comdr. G. C. Manning.

BILLS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H. R. 298. An act for the relief of Jack Page; and

H. R. 617. An act for the relief of Lake B. Morrison.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 17 minutes p. m.) the House adjourned until tomorrow, Thursday, July 18, 1935, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

427. A letter from Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Alabama, Arizona, New Jersey, and Tennessee on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

428. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Indiana, Kentucky, Minnesota, and North Carolina, January 1, 1935; to the Committee on Interstate and Foreign Commerce.

429. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Georgia, Kansas, Virginia, and Wisconsin on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

430. A letter from the Vice Chairman of the Federal Power Commission, transmitting three copies of the domestic and residential electric energy rates in the States of Florida, Montana, and South Dakota on January 1, 1935; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. CULLEN: Committee on Ways and Means. H. R. 8870. A bill to further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes; without amendment (Rept. No. 1542). Referred to the Committee of the Whole House on the state of the Union.

Mr. COLDEN: Committee on the Disposition of Executive Papers. House Report 1543. Disposition of useless papers in the Federal Emergency Relief Administration. Ordered to be printed.

Mr. O'CONNOR: Committee on Rules. House Resolution 300. Resolution providing for the consideration of House Joint Resolution 348; without amendment (Rept. No. 1544). Referred to the House Calendar.

Mr. HOLMES: Committee on Interstate and Foreign Commerce. H. R. 8857. A bill authorizing the States of New York and Vermont to construct, maintain, and operate a toll bridge across Lake Champlain between Rouses Point, N. Y., and Alburg, Vt.; with amendment (Rept. No. 1545). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. HOEPEL: Committee on War Claims. H. R. 381. A bill granting insurance to Lydia C. Spry; without amendment (Rept. No. 1546). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FULMER: A bill (H. R. 8886) to authorize the coinage of 50-cent pieces in commemoration of the sesquicentennial anniversary of the founding of the city of Columbia, S. C.; to the Committee on Coinage, Weights, and Measures.

By Mr. KELLER: A bill (H. R. 8887) to extend the time within which suits may be brought on yearly renewable term insurance, and for other purposes; to the Committee on World War Veterans' Legislation.

By Mr. CROSS of Texas: A bill (H. R. 8888) making it a felony for anyone to sign any fictitious name or the name of another without his or her consent to any written instrument the intent of which is to influence the vote of any Member of Congress for or against any pending legislation and to convey or cause the same to be conveyed to any Member of Congress as well as anyone who conspires in having same done, and assessing the penalty therefor; to the Committee on the Judiciary.

By Mr. DIMOND: A bill (H. R. 8889) to extend certain provisions of the act of June 18, 1934 (48 Stat. 984), to the Territory of Alaska, to define the boundaries of Indian reservations in Alaska, and for other purposes; to the Committee on Indian Affairs.

By Mr. PEYSER: A bill (H. R. 8890) for the erection of an airport on Governors Island; to the Committee on Military Affairs.

By Mr. HIGGINS of Connecticut: A bill (H. R. 8891) to provide for the acquisition of additional land at New London, Conn.; to the Committee on Military Affairs.

By Mr. WHITTINGTON: A bill (H. R. 8892) to modify and extend the project for the flood control and improvement of the Mississippi River authorized by the Flood Control Act of 1928; to the Committee on Flood Control.

By Mr. BEITER: Resolution (H. Res. 298) authorizing the appointment of a committee to investigate waterway conditions in central New York; to the Committee on Rules.

Also, resolution (H. Res. 299) providing for the expenses of conducting the investigation authorized by House Resolution 298; to the Committee on Accounts.

By Mr. PETERSON of Florida: Joint resolution (H. J. Res. 356) to permit articles imported from foreign countries for the purpose of exhibition at the Pan American Exposition to be held in Tampa, Fla., to be admitted without payment of tariff, and for other purposes; to the Committee on Ways and Means.

Also, joint resolution (H. J. Res. 357) providing for participation by the United States in the Pan American Exposition to be held in Tampa, Fla., in commemoration of the four hundredth anniversary of the landing of Hernando De Soto in Tampa Bay; to the Committee on Foreign Affairs.

By Mr. AYERS: Joint resolution (H. J. Res. 358) to further the development of a national program of land conservation and utilization; to the Committee on Agriculture.

By Mr. COFFEE: Joint resolution (H. J. Res. 359) to further the development of a national program of land conservation and utilization; to the Committee on Agriculture.

By Mr. FENERTY: Joint resolution (H. J. Res. 360) authorizing the Secretary of State to communicate with various nations in regard to settling the debts owed to the United States; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CROWTHER: A bill (H. R. 8893) for the relief of Arthur Reid; to the Committee on Military Affairs.

By Mr. DISNEY: A bill (H. R. 8894) to extend the benefits of the Employees' Compensation Act of September 7, 1916, to Maude R. Crawford, widow of William M. Crawford, a former special disbursing officer with the Indian Office at Pawhuska, Okla.; to the Committee on Claims.

By Mr. FISH: A bill (H. R. 8895) for the relief of Paul J. Francis; to the Committee on Claims.

By Mr. GRAY of Pennsylvania: A bill (H. R. 8896) granting a pension to James Y. Bowser; to the Committee on Pensions.

By Mr. KELLER: A bill (H. R. 8897) for the relief of Ruby Rardon; to the Committee on Claims.

By Mr. TOLAN: A bill (H. R. 8898) for the relief of Barbara Jean Matthews, a minor; to the Committee on Claims.

By Mr. UNDERWOOD: A bill (H. R. 8899) granting an increase of pension to Mary Briggs; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9158. By Mr. CLARK of Idaho: Joint memorial passed by the second extraordinary session of the Twenty-third Legislature of Idaho, regarding submarginal farm land; to the Committee on Agriculture.

9159. By Mr. SADOWSKI: Petition of the Department of Michigan, Veterans of Foreign Wars of the United States, endorsing the establishment of a veterans' hospital in the Detroit area; to the Committee on World War Veterans' Legislation.

9160. Also, petition of the Department of Michigan, Veterans of Foreign Wars, petitioning the reconsideration of the drastic ruling to enable any veteran physically fit to secure enlistment in the veteran's contingent of the Civilian Conservation Corps; to the Committee on World War Veterans' Legislation.